

# **Five-Year Review Report**

## **Second Five-Year Review Report**

**for the**

**Agriculture Street Landfill Superfund Site**

**New Orleans, Orleans Parish, Louisiana**



**PREPARED BY:**

**Region 6  
United States Environmental Protection Agency  
Dallas, Texas**

**April 2008**

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# SECOND FIVE-YEAR REVIEW

Agriculture Street Landfill Superfund Site

EPA ID# LAD981056997

New Orleans, Orleans Parish, Louisiana

This memorandum documents the United States Environmental Protection Agency's (EPA's) performance, determinations, and approval of the second five-year review for the Agriculture Street Landfill (ASL) Superfund Site performed under Section 121(c) of the Comprehensive Environmental Response, Compensation & Liability Act (CERCLA), 42 United States Code (USC) §9621(c), as described in the attached Second Five-Year Review Report.

## Summary of Second Five-Year Review Findings

The second five-year review for this site indicates that the removal actions set forth in decision documents for this site have been implemented as planned. Removal actions have been completed for Operable Unit (OU)1 (Undeveloped Property), OU2 (Residential Properties) and OU3 (Shirley Jefferson Community Center). No action was found to be necessary for OU4 (Moton Elementary School) and OU5 (Ground Water). EPA and the Louisiana Department of Environmental Quality (LDEQ) concur that no further action is required for the site.

To ensure continued protectiveness, four issues are identified in the second five-year review for this site. These issues do not currently affect the protectiveness of the remedy, although they need to be addressed to ensure continued protectiveness. These issues are:

1. **Cover maintenance at OU1.** During the site inspection, an area of OU1 was observed being used as a dumpsite for construction debris. The vegetation across the rest of OU1 is overgrown, limiting the ability to directly observe the condition of the soil cover. Also, the gates that provide access to OU1 were unlocked. Although access restrictions at OU1 are not a requirement of the remedy, damage to the soil cover could result from unrestricted vehicular traffic that traverses the property. Ruts made to the soil cover of OU1 made by vehicular traffic could result in exposure of the geotextile fabric and underlying contaminated soils. As long as the 12-inch thick surface soil cover and geotextile barrier remain intact and undamaged, there is minimal risk of exposure to underlying impacted soils below the geotextile barrier at OU1.
2. **Cover maintenance at OU2 and OU3.** At the conclusion of each phase of the response actions conducted at OU2 and OU3, Closeout Letters were provided to property owners describing the operation and maintenance activities that were recommended to protect the soil cover. The post-closure care maintenance activities of the soil cover described by this letter include "filling in holes above the geotextile barrier with clean fill and continued cultivation of grass, shrubbery, and trees and other landscape features to assure a healthy vegetative cover over the clean fill." During the site inspection, overgrown grass was observed at several residential properties at OU2 and the Shirley Jefferson Community Center (OU3). In addition, several leaking fire hydrants and/or water mains were observed within OU2 along Press Street. Erosion of the soil cover was not observed during the site inspection where the leaks were observed, but the potential exists for erosion to occur if the leaks are not addressed. There does not currently appear to be a risk of exposure to underlying impacted soils below the geotextile barrier at OU2 and OU3 as long as the 24-inch thick surface soil cover and geotextile barrier remain intact and undamaged.

3. **Institutional Controls (ICs) providing notice of site conditions and providing Closeout Letters to future property owners.** At the conclusion of each phase of the response actions (Phase I - February 2, 2000, and Phase II - April 27, 2001), a Closeout Completion Package was provided to each owner of property in OU1, OU2, and OU3 who participated in the removal action. Closeout Letters describing the operation and maintenance activities that should be performed by the property owner were included in the Closeout Completion Package. However, if a property owner sells their property, they are not required to provide this information to new owners. Also, there are currently no ICs in place that provide notice to future property owners at the site regarding the site conditions and the information in the Closeout Letters.
4. **Institutional Controls for handling of soils from below the geotextile barrier.** In addition to the Closeout Letters provided to property owners, EPA prepared a set of instructions titled Technical Abstract for Utilities Operating Within the Agriculture Street Landfill Superfund Site for local utilities. The Closeout Letters and the Technical Abstract document provide instructions for excavating and handling soils from below the geotextile barrier, but there are currently no procedures in place for the handling and disposal of soil excavated from below the geotextile barrier in the event that the material cannot be returned to the excavated area below the barrier.

### **Actions Needed**

To address the issues identified during the second five-year review, the following recommendations and follow-up actions have been identified for the ASL site:

1. The EPA and the City of New Orleans have agreed to terms on a Consent Decree to address the maintenance issues at OU1. The Consent Decree has been signed by both EPA and the City of New Orleans, but it has not yet been lodged in the District Court. Once the Consent Decree is lodged with the District Court, the work stipulated in the Consent Decree should be implemented by the City of New Orleans to ensure the maintenance necessary to maintain the surface soil cover at OU1 is performed.
2. The Consent Decree signed by EPA and the City of New Orleans addresses the maintenance issues observed at OU2 and OU3. Once the Consent Decree is lodged with the District Court, the work stipulated in the Consent Decree should be implemented by the City of New Orleans to ensure the appropriate maintenance of the soil cover at OU1, OU2, and OU3 is performed as stipulated in the Consent Decree and Closeout Letter. Also, the leaking fire hydrants and/or water mains along Press Street need to be repaired to ensure that the soil cover is not eroded and the geotextile barrier and underlying soils are not exposed.
3. The Consent Decree signed by EPA and the City of New Orleans includes work to be performed by the City to ensure notice is provided to future property owners of existing site conditions and the information included in the Closeout Letters. The actions to be implemented by the City of New Orleans include providing an annual notice to property owners within the ASL site. The City of New Orleans will ensure that within 60 days of entry of the Decree and on an annual basis thereafter, the Sewerage and Water Board (SWB) includes in bills to customers owning or renting property at the site the protocol for Post-Removal Maintenance for Property Owners. Alternatively, within 60 days of entry of the Decree and on an annual basis thereafter, the City of New Orleans will mail the protocol to property owners and renters at the site. Once the Consent Decree has been lodged with the District Court, the City of New Orleans should implement these actions to ensure future property

owners are provided notice of existing site conditions and maintenance activities as specified in the Closeout Completion Package.

4. The Consent Decree signed by EPA and the City of New Orleans requires that the City of New Orleans implement additional ICs that stipulate the requirements for handling and disposal of soil excavated from below the geotextile barrier at the ASL site. Once the Consent Decree has been lodged with the District Court, the appropriate ICs should be put in place by the City of New Orleans that stipulate the requirements for handling and disposal of soil that has been excavated from below the geotextile barrier.

#### **Protectiveness Statement**

The time-critical and non-time critical removal actions performed at the site are considered protective of human health and the environment because contaminated soil has been removed or contained and is protected from erosion, and a barrier has been constructed to prevent exposure to the remaining impacted soil. The soil barrier covering the site is in place and expected to remain in place over time, restricting exposure to the remaining subsurface contamination. The EPA and the City of New Orleans have recently agreed to and signed a Consent Decree that will address the issues and recommendations identified in this Second Five-Year Review Report. Because the completed response actions for the ASL site currently prevent exposure to remaining site contamination, the remedy is considered protective of human health and the environment in the short-term, and will continue to be protective if the recommendations and follow-up actions identified in the five-year review are addressed.

#### **Determinations**

I have determined that the actions performed for the Agriculture Street Landfill Superfund Site are protective of human health and the environment, and will remain so provided the action items identified in the Second Five-Year Review Report are addressed as described above.

Samuel E. Coleman, P.E.  
Director, Superfund Division  
U.S. Environmental Protection Agency, Region 6

Date

  
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4/25/08  
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## CONCURRENCES

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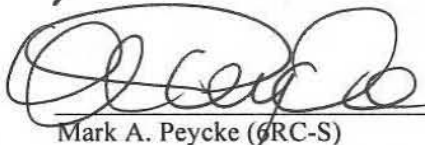
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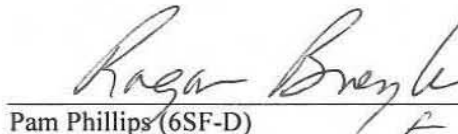
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# Contents

Section	Page
Contents .....	i
Acronyms .....	iii
Executive Summary .....	v
Five-Year Review Summary Form .....	ix
Second Five-Year Review Report.....	1
1.0 Introduction.....	1
2.0 Site Chronology .....	2
3.0 Background.....	3
3.1 Physical Characteristics .....	3
3.1.1 Geology.....	3
3.1.2 Hydrogeology .....	4
3.2 Land and Resource Use.....	5
3.3 History of Contamination.....	6
3.4 Initial Response.....	7
3.5 Basis for Taking Action .....	9
4.0 Remedial Actions.....	9
4.1 Remedy Objectives .....	9
4.2 Remedy Selection .....	10
4.3 Remedy Implementation .....	10
4.4 Operations and Maintenance.....	10
4.5 Progress Since Initiation of Removal Actions .....	11
5.0 Progress Since the First Five-Year Review .....	11
5.1 Impacts from Hurricanes Katrina and Rita .....	11
5.2 Consent Decree Between EPA and the City of New Orleans .....	12
5.3 Protectiveness Statements from First Five-Year Review.....	14
5.4 First Five-Year Review Recommendations and Follow-up Actions.....	15
5.5 Status of Recommended Actions .....	15
6.0 Five-Year Review Process .....	15
6.1 Administrative Components .....	15
6.2 Community Involvement .....	16
6.3 Document Review .....	16
6.4 Data Review .....	16
6.5 Interviews.....	17
6.6 Site Inspection.....	19
7.0 Technical Assessment .....	20
7.1 Question A: Is the Remedy Functioning as Intended by the Decision Documents?.....	21
7.2 Question B: Are the Exposure Assumptions, Toxicity Data, Cleanup Levels, and Remedial Action Objectives Used at the Time of the Remedy Selection Still Valid?.....	22

7.3 Question C: Has any Other Information Come to Light that Could Call into Question the  
Protectiveness of the Remedy? ..... 23

7.4 Summary of the Technical Assessment ..... 24

8.0 Institutional Controls ..... 25

8.1 Types of Institutional Controls in Place at the Site..... 25

8.2 Effect of Future Land Use Plans on Institutional Controls ..... 26

8.3 Plans for Changes to Site Contamination Status..... 26

9.0 Issues..... 26

10.0 Recommendations and Follow-up Actions ..... 27

11.0 Protectiveness Statement..... 29

12.0 Next Review..... 29

**List of Tables**

Table 1 Chronology of Site Events

Table 2 Actions Taken Since Last Five-Year Review

Table 3 Recommendations and Follow-up Actions

**List of Figures**

Figure 1 Agriculture Street Landfill Site Map

**List of Attachments**

Attachment 1 Documents Reviewed

Attachment 2 Interview Record Forms

Attachment 3 Site Inspection Checklist

Attachment 4 Site Inspection Photographs

Attachment 5 Notice to the Public Regarding the Five-Year Review

Attachment 6 Closeout Letters and Instructions for OU Property Owners

Attachment 7 Conveyance Notices

Attachment 8 Consent Decree

Attachment 9 City Ordinance

## Acronyms

ASL	Agriculture Street Landfill
ARARs	Applicable or Relevant and Appropriate Requirements
bgs	below ground surface
CERCLA	Comprehensive Environmental Response, Compensation, and Liability Act
CFR	Code of Federal Regulations
COPC	Contaminants Of Potential Concern
cPAH	carcinogenic Polynuclear Aromatic Hydrocarbons
EE/CA	Engineering Evaluation/Cost Analysis
EPA	United States Environmental Protection Agency
FEMA	Federal Emergency Management Agency
gpd	gallons per day
HANO	Housing Authority of New Orleans
ICs	Institutional Controls
LAC	Louisiana Administrative Code
LDEQ	Louisiana Department of Environmental Quality
MCL	Maximum Contaminant Level
M.C.S.	Mayor Council Series
NCP	National Contingency Plan
NPL	National Priority List
mg/kg	milligrams per kilogram
msl	mean sea level
MSSL	Medium Specific Screening Levels
NCP	National Oil and Hazardous Substances Pollution Contingency Plan
NPL	National Priorities List
O&M	Operations and Maintenance
OU	Operable Unit
ppm	parts per million
PAH	Polynuclear Aromatic Hydrocarbons
RBCs	Risk Based Concentrations
RECAP	Risk Evaluation/Corrective Action Program
RPM	Remedial Project Manager
ROD	Record of Decision
RRII	Remedial/Removal Integrated Investigation
SARA	Superfund Amendments and Reauthorization Act
SWB	Sewerage and Water Board
TBC	To be Considered
USC	United States Code

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## Executive Summary

The second five-year review of the Agriculture Street Landfill (ASL) Superfund Site located in Orleans Parish, New Orleans, Louisiana, was completed in February 2008. This site is on the National Priorities List (NPL) and is a removal-only site, where, under a protective cover, the removal action left hazardous substances, pollutants, or contaminants onsite above levels that would allow for unlimited use and unrestricted exposure. A commitment to the community to perform at least one five-year review for this site, to be conducted as a matter of U. S. Environmental Protection Agency (EPA) policy, was noted in a Record of Decision (ROD) signed in April 2002. EPA has performed this second five-year review to ensure continued protectiveness. The results of this second five-year review indicate that the removal actions completed at the site are protective of human health and the environment. The removal and follow-up actions performed appear to be functioning as designed, and the site has been maintained sufficiently to protect the soil cover over the remaining waste. No deficiencies were noted that currently impact the protectiveness of the removal actions, although a few issues were identified that require further action to ensure the continued protectiveness of the removal actions.

The ASL site consists of approximately 95 acres in the eastern area of New Orleans. The site was used as a municipal landfill for the City of New Orleans from about 1909 until the landfill was closed in the late 1950s. The landfill was reopened in 1965 for approximately one year as a burning and disposal area for debris created by Hurricane Betsy. From the 1970s through the late 1980s, approximately 47 acres of the site were developed for private and public uses; these areas currently support single-family homes, multiple-family dwellings, retail businesses, an elementary school, a community center, a recreation center, and an electrical substation. The remainder of the site, approximately 48 acres, remained undeveloped and heavily vegetated (EPA, 2003).

The EPA originally organized the work for this site into the following five Operable Units (OUs):

OU1 - Undeveloped Property

OU2 – Residential Properties (consists of the Gordon Plaza Apartments, single-family dwellings in Gordon Plaza subdivision, the Press Court town homes, and retail businesses)

OU3 - Shirley Jefferson Community Center

OU4 - Moton Elementary School, which includes Mugrauer Playground

OU5 - Ground Water

The primary contaminant of concern addressed by the cleanup at the ASL site was lead. Additional contaminants of potential concern (COPCs) included arsenic and carcinogenic polynuclear aromatic

hydrocarbons (cPAHs). A ROD for OU4 and OU5 was signed on September 2, 1997. An Action Memorandum for OU1, OU2, and OU3 was signed on September 2, 1997. The ROD for OU1, OU2, and OU3 was signed on April 4, 2002.

The 1997 ROD for OU4 and OU5 required no further action because there was no risk to human health. The Moton Elementary School was built on a three-foot layer of clean fill, which addressed all risks posed by this portion of the site. Regarding the ground water (OU5), residents in the site area were confirmed to be served by the municipal drinking water supply of the City of New Orleans, and information obtained from the Louisiana Department of Environmental Quality (LDEQ) during site investigation activities confirmed that ground water beneath the site is not used for any beneficial purpose and should not be considered a potential source of drinking water. In addition, site ground water presents no other pathway of exposure (to surface water, for example). The ROD for OU4 and OU5 recommended that both OUs be deleted from the NPL. After public notice and an opportunity for public comment, OU4 and OU5 were deleted from the NPL on June 15, 2000 (**EPA, 2002b**).

The 1997 Action Memorandum for OU1 included the following:

- 1) The undeveloped property (48 acres) was cleared of vegetation and graded.
- 2) A layer of geotextile filter fabric was placed on the subgrade and covered with 12 inches of clean fill. The purpose of the geotextile fabric was to create a physical barrier between clean cover soils and contaminated subsoil (NOTE: The geotextile filter does not act as a liner; it is simply a “notice” that if you are digging you have reached the limit of “clean” soil).

The 1997 Action Memorandum for OU2 and OU3 included the following:

- 1) The top 24 inches of existing soil and waste material on the residential properties and community center were excavated and transported offsite for disposal.
- 2) Permeable geotextile filter fabric was placed on the subgrade and covered with 24 inches of clean fill (Again, NOTE: This geotextile filter fabric does not act as a liner; it is simply a “notice” that if you are digging you have reached the limit of “clean” soil).

The 2002 ROD for OU1, OU2, and OU3 required no further action as the cleanup under the 1997 Action Memorandum addressed all contamination (**EPA, 2002a**).

The first Five-Year Review for the ASL site was published in June 2003. The review concluded the removal actions set forth in decision documents for this site had been implemented as planned and appeared to be functioning as designed, and the site had been maintained sufficiently to protect the cover over the remaining waste. No deficiencies were noted that impacted the protectiveness of the removal

actions in the short term; however, two issues were identified that required further action to ensure the continued protectiveness of the removal actions. These issues related to certain cover maintenance instructions for property owners, and surface ruts observed in the northern portion of OU1.

During the current five-year review period, Hurricane Katrina made landfall on the coast of Louisiana, near the City of New Orleans, on August 29, 2005, resulting in severe damage from wind and flooding. Several of the flood-protection levees failed as a result of the hurricane, and most of the City of New Orleans, including the ASL site, was flooded. On September 24, 2005, Hurricane Rita made landfall west of New Orleans, and parts of New Orleans (not including the ASL site) were again flooded. The EPA performed an assessment of NPL sites to determine if site conditions or remedies already in place were adversely impacted. On October 1 and 2, 2005, CH2M HILL, a contractor for EPA, conducted a site inspection and collected soil samples at the ASL site as part of this assessment. On October 28, 2005, additional sediment samples were collected by a different contractor (Weston Solutions) at the ASL site. The purpose of the inspection and sampling events was to assess the impact Hurricanes Katrina and Rita may have had at the site. The results of the sampling indicate that flooding did not cause any upward movement of lead, the primary contaminant of concern at the site, through the remediated soils, and EPA determined that the remedy for the ASL site was not affected by Hurricane Katrina (**EPA, 2006**). Samples of sediments deposited by flooding in the area were found to contain levels of benzo(a)pyrene that exceeded LDEQ Risk Evaluation/Corrective Action Program (RECAP) criteria. The EPA and LDEQ are conducting further sampling of sediments in the area to address this issue (**EPA, 2007a**).

On August 29, 2006, The U.S. Department of Health and Human Services prepared a Health Consultation in response to Hurricane Katrina sampling assessment for the ASL site. The primary goals of this Health Consultation were to determine whether sediments introduced by floodwaters at the ASL site posed a threat to human health and to establish what further public health actions, if any, may be needed at the ASL site. Data from multiple sampling events were assessed for the preparation of the Health Consultation, including data collected on October 2005, and a re-sampling event of one of the sample locations performed by LDEQ on November 19, 2005. In addition, data from a sampling event performed by EPA and LDEQ on February 16-17, 2006, to re-examine levels of benzo(a)pyrene at the site, were evaluated in the Health Consultation. The consultation concluded that the majority of the contaminants detected in flood-deposited sediments and soils at the ASL site posed no apparent public health hazard to residents at the site. PAH concentrations of concern were found at the north end of the site. Benzo(a)pyrene concentrations appeared to have undergone degradation from the first sampling event to the most recent sampling event, but no follow-up data were available for the other PAHs detected in the initial site sampling event (**DHHS, 2006**).

On December 1, 2006, conveyance notifications were filed at the Orleans Parish Conveyance Office for the nine properties that elected not to participate in the removal action performed at OU2. The conveyance notices were filed to notify the public that soil on these properties may contain contaminant levels that are unacceptable for non-industrial use of the property as described in the LDEQ RECAP, Section 2.9. Copies of the conveyance notifications are provided in [Attachment 7](#).

The comment period for the Notice of Intent to Delete the site from the National Priorities List concluded on October 25, 2004. The EPA and the City of New Orleans have agreed to terms of a Consent Decree to address maintenance issues at ASL site and implement additional Institutional Controls. The Consent Decree has been signed by both EPA and the City of New Orleans, but it has not yet been lodged in the District Court. In order to implement additional ICs at the ASL site, the City of New Orleans will be required to implement the work described in the Consent Decree. Once the Consent Decree becomes official, the ICs can be established and the deletion process will continue (**EPA, 2007b**).

As noted above, remedial actions performed at the site appear to be functioning as designed. Following Hurricanes Katrina and Rita, EPA reviewed the status of the remedy and determined the remedy was not directly affected. To ensure continued protectiveness, four issues are identified in the second five-year review for the ASL site, as described in the following paragraphs. These issues do not currently affect the protectiveness of the remedy, although they need to be addressed to ensure continued protectiveness. These issues are:

1. **Cover maintenance at OU1.** During the site inspection, an area of OU1 was observed being used as a dumpsite for construction debris. The vegetation across the rest of OU1 is overgrown, limiting the ability to directly observe the condition of the soil cover. Also, the gates that provide access to OU1 were unlocked. Although access restrictions at OU1 are not a requirement of the remedy, damage to the soil cover could result from unrestricted vehicular traffic that traverses the property. Ruts made to the soil cover of OU1 by vehicular traffic could result in exposure of the geotextile fabric and underlying contaminated soils. As long as the 12-inch thick surface soil cover and geotextile barrier remains intact and undamaged, there is minimal risk of exposure to underlying impacted soils below the geotextile barrier at OU1.
2. **Cover maintenance at OU2 and OU3.** At the conclusion of each phase of the response actions conducted at OU2 and OU3, Closeout Letters were provided to property owners describing the operation and maintenance activities that were recommended to protect the soil cover. The post-closure care maintenance activities of the soil cover described by this letter include “filling in holes above the geotextile barrier with clean fill and continued cultivation of grass, shrubbery, and trees and



other landscape features to assure a healthy vegetative cover over the clean fill.” During the site inspection, overgrown grass was observed at several residential properties at OU2 and the Shirley Jefferson Community Center (OU3). In addition, several leaking fire hydrants and/or water mains were observed within OU2 along Press Street. Erosion of the soil cover was not observed during the site inspection where the leaks were observed, but the potential exists for erosion to occur if the leaks are not addressed. There does not currently appear to be a risk of exposure to underlying impacted soils below the geotextile barrier at OU2 and OU3 as long as the 24-inch thick surface soil cover and geotextile barrier remain intact and undamaged.

3. **Institutional Controls (ICs) providing notice of site conditions and providing Closeout Letters to future property owners.** At the conclusion of each phase of the response actions (Phase I - February 2, 2000, and Phase II - April 27, 2001), a Closeout Completion Package was provided to each owner of property in OU1, OU2, and OU3 who participated in the removal action. Closeout Letters describing the operation and maintenance activities that should be performed by the property owner were included in the Closeout Completion Package. However, if a property owner sells their property, they are not required to provide this information to new owners. Also, there are currently no ICs in place that provide notice to future property owners at the site regarding the site conditions and the information in the Closeout Letters.
4. **Institutional Controls for handling of soils from below the geotextile barrier.** In addition to the Closeout Letters provided to property owners, EPA prepared a set of instructions titled Technical Abstract for Utilities Operating Within the Agriculture Street Landfill Superfund Site for local utilities. The Closeout Letters and the Technical Abstract document provide instructions for excavating and handling soils from below the geotextile barrier, but there are currently no procedures in place for the handling and disposal of soil excavated from below the geotextile barrier in the event that the material cannot be returned to the excavated area below the barrier.

### **Recommendations/Follow-up Actions**

To address these issues, the following recommendations and follow-up actions have been defined for the ASL site:

1. The EPA and the City of New Orleans have agreed to terms on a Consent Decree to address the maintenance issues at OU1. The Consent Decree has been signed by both EPA and the City of New Orleans, but it has not yet been lodged in the District Court. Once the Consent Decree is lodged with the District Court, the work stipulated in the Consent Decree should be implemented by the City of

New Orleans to ensure the maintenance necessary to maintain the surface soil cover at OU1 is performed.

2. The Consent Decree signed by EPA and the City of New Orleans addresses the maintenance issues observed at OU2 and OU3. Once the Consent Decree is lodged with the District Court, the work stipulated in the Consent Decree should be implemented by the City of New Orleans to ensure the appropriate maintenance of the soil cover at OU1, OU2, and OU3 is performed as stipulated in the Consent Decree and Closeout Letter. Also, the leaking fire hydrants and/or water mains along Press Street need to be repaired to ensure that the soil cover is not eroded and the geotextile barrier and underlying soils are not exposed.
3. The Consent Decree signed by EPA and the City of New Orleans includes work to be performed by the City to ensure notice is provided to future property owners of existing site conditions and the information included in the Closeout Letters. The actions to be implemented by the City of New Orleans include providing an annual notice to property owners within the ASL site. The City of New Orleans will ensure that within 60 days of entry of the Decree and on an annual basis thereafter, the Sewerage and Water Board includes in bills to customers owning or renting property at the site the protocol for Post- Removal Maintenance for Property Owners. Alternatively, within 60 days of entry of the Decree and on an annual basis thereafter, the City of New Orleans will mail the protocol to property owners and renters at the site. Once the Consent Decree has been lodged with the District Court, the City of New Orleans should implement these actions to ensure future property owners are provided notice of existing site conditions and maintenance activities as specified in the Closeout Completion Package.
4. The Consent Decree signed by EPA and the City of New Orleans requires that the City of New Orleans implement additional ICs that stipulate the requirements for handling and disposal of soil excavated from below the geotextile barrier at the ASL site. Once the Consent Decree has been lodged with the District Court, the appropriate ICs should be put in place by the City of New Orleans that stipulate the requirements for handling and disposal of soil that has been excavated from below the geotextile barrier.

The time-critical and non-time critical removal actions performed at the site are considered protective of human health and the environment because contaminated soil has been removed or contained and is protected from erosion, and a barrier has been constructed to prevent exposure to the remaining impacted soil. The soil barrier covering the site is in place and expected to remain in place over time, restricting exposure to the remaining subsurface contamination. The EPA and the City of New Orleans have recently agreed to and signed a Consent Decree that will address the issues and recommendations

identified in this Second Five-Year Review Report. Because the completed response actions for the ASL site currently prevent exposure to remaining site contamination, the remedy is considered protective of human health and the environment in the short-term, and will continue to be protective if the recommendations and follow-up actions identified in the five-year review are addressed.

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Five-Year Review Summary Form												
SITE IDENTIFICATION												
Site name (from WasteLAN): Agriculture Street Landfill Superfund Site												
EPA ID (from WasteLAN): LAD981056997												
Region: EPA Region 6	State: Louisiana	City/County: New Orleans/Orleans Parish										
SITE STATUS												
NPL Status: <input checked="" type="checkbox"/> Final <input type="checkbox"/> Deleted <input type="checkbox"/> Other (specify):												
Remediation status (choose all that apply): <input type="checkbox"/> Under Construction <input checked="" type="checkbox"/> Operating <input type="checkbox"/> Complete												
Multiple OUs? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Construction completion date: 2002											
Has site been put into reuse? <input checked="" type="checkbox"/> Yes (partially) <input type="checkbox"/> No												
REVIEW STATUS												
Reviewing agency: <input checked="" type="checkbox"/> EPA <input type="checkbox"/> State <input type="checkbox"/> Tribe <input type="checkbox"/> Other Federal Agency:												
Author: EPA Region 6, with support from EPA contractor CH2M HILL												
Review period: September 2003 through April 2008												
Date(s) of site inspection: November 11, 2007												
Type of review: <table border="0"> <tr> <td><input type="checkbox"/> Statutory</td> <td><input type="checkbox"/> Pre-SARA</td> </tr> <tr> <td><input checked="" type="checkbox"/> Policy</td> <td><input checked="" type="checkbox"/> NPL-Removal only</td> </tr> <tr> <td><input type="checkbox"/> Post-SARA</td> <td><input type="checkbox"/> NPL State/Tribe-lead</td> </tr> <tr> <td><input type="checkbox"/> Non-NPL Remedial Action site</td> <td></td> </tr> <tr> <td><input type="checkbox"/> Regional Discretion</td> <td></td> </tr> </table>			<input type="checkbox"/> Statutory	<input type="checkbox"/> Pre-SARA	<input checked="" type="checkbox"/> Policy	<input checked="" type="checkbox"/> NPL-Removal only	<input type="checkbox"/> Post-SARA	<input type="checkbox"/> NPL State/Tribe-lead	<input type="checkbox"/> Non-NPL Remedial Action site		<input type="checkbox"/> Regional Discretion	
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Triggering action: <table border="0"> <tr> <td><input type="checkbox"/> Actual RA Onsite Construction</td> <td><input type="checkbox"/> Actual RA Start</td> </tr> <tr> <td><input type="checkbox"/> Construction Completion</td> <td><input checked="" type="checkbox"/> Recommendation of Previous</td> </tr> <tr> <td><input type="checkbox"/> Other: Commitment to Community</td> <td>Five-Year Review Report</td> </tr> </table>			<input type="checkbox"/> Actual RA Onsite Construction	<input type="checkbox"/> Actual RA Start	<input type="checkbox"/> Construction Completion	<input checked="" type="checkbox"/> Recommendation of Previous	<input type="checkbox"/> Other: Commitment to Community	Five-Year Review Report				
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<input type="checkbox"/> Other: Commitment to Community	Five-Year Review Report											
Triggering action date: June 30, 2003 (Date First Five Year Review signed)												
Due date (five years after triggering action date): June 30, 2008												
<b>Issues:</b> Based on the data review, site inspection, interviews, and technical assessment, it appears the remedy has been implemented as planned and is functioning as intended by the decision documents in the short-term. To ensure continued protectiveness, four issues are identified in the second five-year review for this site, as described in the following paragraphs. These issues do not currently affect the protectiveness of the remedy, although they need to be addressed to ensure continued protectiveness.												

1. **Cover maintenance at OU1.** During the site inspection, an area of OU1 was observed being used as a dumpsite for construction debris. The vegetation across the rest of OU1 is overgrown, limiting the ability to directly observe the condition of the soil cover. Also, the gates that provide access to OU1 were unlocked. Although access restrictions at OU1 are not a requirement of the remedy, damage to the soil cover could result from unrestricted vehicular traffic that traverses the property. Ruts made to the soil cover of OU1 by vehicular traffic could result in exposure of the geotextile fabric and underlying contaminated soils. As long as the 12-inch thick surface soil cover and geotextile barrier remain intact and undamaged, there is minimal risk of exposure to underlying impacted soils below the geotextile barrier at OU1.
2. **Cover maintenance at OU2 and OU3.** At the conclusion of each phase of the response actions conducted at OU2 and OU3, Closeout Letters were provided to property owners describing the operation and maintenance activities that were recommended to protect the soil cover. The post-closure care maintenance activities of the soil cover described by this letter include “filling in holes above the geotextile barrier with clean fill and continued cultivation of grass, shrubbery, and trees and other landscape features to assure a healthy vegetative cover over the clean fill.” During the site inspection, overgrown grass was observed at several residential properties at OU2 and the Shirley Jefferson Community Center (OU3). In addition, several leaking fire hydrants and/or water mains were observed within OU2 along Press Street. Erosion of the soil cover was not observed during the site inspection where the leaks were observed, but the potential exists for erosion to occur if the leaks are not addressed. There does not currently appear to be a risk of exposure to underlying impacted soils below the geotextile barrier at OU2 and OU3 as long as the 24-inch thick surface soil cover and geotextile barrier remain intact and undamaged.
3. **Institutional Controls (ICs) providing notice of site conditions and providing Closeout Letters to future property owners.** At the conclusion of each phase of the response actions (Phase I - February 2, 2000, and Phase II - April 27, 2001), a Closeout Completion Package was provided to each owner of property in OU1, 2, and 3 who participated in the removal action. Closeout Letters describing the operation and maintenance activities that should be performed by the property owner were included in the Closeout Completion Package. However, if a property owner sells their property, they are not required to provide this information to new owners. Also, there are currently no ICs in place that provide notice to future property owners at the site regarding the site conditions and the information in the Closeout Letters.
4. **Institutional Controls for handling of soils from below the geotextile barrier.** In addition to the Closeout Letters provided to property owners, EPA prepared a set of instructions titled Technical Abstract for Utilities Operating Within the Agriculture Street Landfill Superfund Site for local utilities. The Closeout Letters and the Technical Abstract document provide instructions for excavating and handling soils from below the geotextile barrier, but there are currently no procedures in place for the handling and disposal of soil excavated from below the geotextile barrier in the event that the material cannot be returned to the excavated area below the barrier.

**Recommendations and Follow-Up Actions:** To address the issues identified during the second five-year review, the following recommendations and follow-up actions have been identified for the ASL site:

1. The EPA and the City of New Orleans have agreed to terms on a Consent Decree to address the maintenance issues at OU1. The Consent Decree has been signed by both EPA and the City of New Orleans, but it has not yet been lodged in the District Court. Once the Consent Decree is lodged with the District Court, the work stipulated in the Consent Decree should be implemented by the City of New Orleans to ensure the maintenance necessary to maintain the surface soil cover at OU1 is performed.

2. The Consent Decree signed by EPA and the City of New Orleans addresses the maintenance issues observed at OU2 and OU3. Once the Consent Decree is lodged with the District Court, the work stipulated in the Consent Decree should be implemented by the City of New Orleans to ensure the appropriate maintenance of the soil cover at OU1, OU2, and OU3 is performed as stipulated in the Consent Decree and Closeout Letter. Also, the leaking fire hydrants and/or water mains along Press Street need to be repaired to ensure that the soil cover is not eroded and the geotextile barrier and underlying soils is not exposed.
3. The Consent Decree signed by EPA and the City of New Orleans includes work to be performed by the City to ensure notice is provided to future property owners of existing site conditions and the information included in the Closeout Letters. The actions to be implemented by the City of New Orleans include providing an annual notice to property owners within the ASL site. The City of New Orleans will ensure that within 60 days of entry of the Decree and on an annual basis thereafter, the Sewerage and Water Board includes in bills to customers owning or renting property at the site the protocol for Post- Removal Maintenance for Property Owners. Alternatively, within 60 days of entry of the Decree and on an annual basis thereafter, the City of New Orleans will mail the protocol to property owners and renters at the site. Once the Consent Decree has been lodged with the District Court, the City of New Orleans should implement these actions to ensure future property owners are provided notice of existing site conditions and maintenance activities as specified on the Closeout Completion Package.
4. The Consent Decree signed by EPA and the City of New Orleans requires that the City of New Orleans implement additional ICs that stipulate the requirements for handling and disposal of soil excavated from below the geotextile barrier at the ASL site. Once the Consent Decree has been lodged with the District Court, the appropriate ICs should be put in place by the City of New Orleans that stipulate the requirements for handling and disposal of soil that has been excavated from below the geotextile barrier.

**Protectiveness Statement(s):** The time-critical and non-time critical removal actions performed at the site are considered protective of human health and the environment because contaminated soil has been removed or contained and is protected from erosion, and a barrier has been constructed to prevent exposure to the remaining impacted soil. The soil barrier covering the site is in place and expected to remain in place over time, restricting exposure to the remaining subsurface contamination. The EPA and the City of New Orleans have recently agreed to and signed a Consent Decree that will address the issues and recommendations identified in this Second Five-Year Review Report. Because the completed response actions for the ASL site currently prevent exposure to remaining site contamination, the remedy is considered protective of human health and the environment in the short-term, and will continue to be protective if the recommendations and follow-up actions identified in the five-year review are addressed.

**Other Comments:** On August 29, 2005, Hurricane Katrina made landfall on the southeast coast of Louisiana. Hurricane Katrina caused extensive damage and flooding in areas of Louisiana and Mississippi. As a result of the hurricane, EPA performed an assessment of NPL sites to determine if site conditions or remedies already in place were adversely impacted. On October 1 and 2, 2005, EPA conducted a site inspection and performed soil sampling at the ASL site as part of this assessment. Additional sediment samples were collected at the ASL site on October 28, 2005. The results of the sampling indicate that flooding did not cause any upward movement of lead, the primary contaminant of concern at the site, through the remediated soils, and EPA determined that the remedy for the ASL site was not affected by Hurricane Katrina (**EPA, 2006**)

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# Second Five-Year Review Report

## Agriculture Street Landfill Superfund Site

The United States Environmental Protection Agency (EPA) Region 6 has conducted a second five-year review of the removal actions implemented at the Agriculture Street Landfill (ASL) Superfund Site during the period of June 2003 through February 2008. The site is located within the city limits of New Orleans, Orleans Parish, Louisiana, approximately three miles south of Lake Pontchartrain and 3 miles north-northeast of the city's central business district. The purpose of a five-year review is to determine whether the response action taken at a site is protective of human health and the environment, and to document the methods, findings, and conclusions of the five-year review in a Five-Year Review Report. This Second Five-Year Review Report documents the results of the review for the ASL site performed in accordance with EPA guidance on five-year reviews.

EPA guidance on conducting five-year reviews is provided by OSWER Directive 9355.7-03B-P, *Comprehensive Five-Year Review Guidance (EPA, 2001)* (replaces and supersedes all previous guidance on conducting five-year reviews). EPA and contractor personnel followed the guidance provided in this OSWER directive in conducting the five-year review performed for the ASL site.

## 1.0 Introduction

Five-year reviews are conducted either to meet the statutory mandate under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), Section 121, or as a matter of EPA policy. The statutory requirement to conduct five-year reviews was added to CERCLA as part of the Superfund Amendments and Reauthorization Act of 1986 (SARA). The EPA further addressed this requirement in the National Contingency Plan (NCP). EPA may also conduct five-year reviews as a matter of policy for sites not addressed specifically by the statutory requirement. EPA therefore classifies each five-year review as either "statutory" or "policy" depending on whether it is being required by statute or is being conducted as a matter of policy. CERCLA §121(c), as amended by SARA, states:

If the President selects a remedial action that results in any hazardous substances, pollutants, or contaminants remaining at the site, the President shall review such remedial action no less often than each five years after the initiation of such remedial action to assure that human health and the environment are being protected by the remedial action being implemented.

The NCP states:

If a remedial action is selected that results in hazardous substances, pollutants, or contaminants remaining

at the site above levels that allow for unlimited use and unrestricted exposure, the lead agency shall review such action no less often than every five years after the initiation of the selected remedial action [40 CFR §300.430(f)(4)(ii)].

The statutory requirement to conduct a five-year review applies to CERCLA Section 121 remedial actions selected after the effective date of SARA (October 17, 1986). For sites where a statutory review is not specifically required, reviews may be conducted as a matter of policy for any of the following types of actions:

1. A pre-or post-SARA remedial action that will not leave hazardous substances, pollutants, or contaminants above levels that allow for unlimited use or unrestricted exposure, but will take longer than five years to complete.
2. A pre-SARA remedial action that leaves hazardous substances, pollutants, or contaminants, above levels that allow for unlimited use or unrestricted exposure.
3. A removal action for a site on the National Priority Lists (NPL) that will leave hazardous substances, pollutants, or contaminants above levels that allow for unlimited use or unrestricted exposure, and where no remedial action has or will take place.

This last type of action described above (item 3) corresponds to the remedy specified for the ASL site; therefore, this five-year review is being conducted as a matter of policy. The Record of Decision (ROD) for the site signed in April 2002 specifies that at least one five-year review be conducted for this site. EPA has performed this second five-year review to ensure the continued protectiveness of the removal actions performed at the site.

The comment period for the Notice of Intent to Delete the site from the National Priorities List concluded on October 25, 2004. The EPA and the City of New Orleans have agreed to terms on a Consent Decree to address maintenance issues at the ASL site and implement additional Institutional Controls. The Consent Decree has been signed by both EPA and the City of New Orleans, but it has not yet been lodged in the District Court. In order to implement additional ICs at the ASL site, the City of New Orleans will be required to implement the work described in the Consent Decree. Once the Consent Decree becomes official, the ICs can be established and the deletion process will continue (**EPA, 2007b**).

## 2.0 Site Chronology

A chronology of significant site-related events and dates is included in [Table 1](#), provided at the end of the report text. Sources of this information are listed in [Attachment 1, Documents Reviewed](#).

## 3.0 Background

This section describes the physical setting of the site, including a description of the land use, resource use, and environmental setting. This section also describes the history of contamination associated with the site, the initial response actions taken at the site, and the basis for each of the initial response actions.

Remedial actions performed subsequent to the initial response actions at the site are described in [Section 4](#).

### 3.1 Physical Characteristics

The ASL site is located in the eastern section of the City of New Orleans, Orleans Parish, Louisiana. The approximate geographic coordinates for the center of the former landfill are 29° 59' 20" north latitude and 90° 02' 31" west longitude. The site consists of approximately 95 acres. As shown on [Figure 1](#), the site is bounded on the north by Higgins Boulevard, on the northwest by Almonaster Boulevard, and on the south and west by the Southern Railroad rights-of-way. The eastern site boundary extends from the cul-de-sac at the southern end of Clouet Street (at the southeast corner of the site, near the railroad tracks) north to Higgins Boulevard between Press and Montegut Streets (**EPA, 2002**).

Currently, the site is partially developed (see [Figure 1](#)). From the 1970s through the late 1980s, approximately 47 acres of the site were developed for private and public uses and currently support single-family homes, multiple-family dwellings, retail businesses, an elementary school, a community center, a recreation center, and an electrical substation. The remainder of the site, approximately 48 acres, remains undeveloped and heavily vegetated (**EPA, 2003**).

On August 29, 2005, Hurricane Katrina made landfall on the southeast coast of Louisiana. Hurricane Katrina caused extensive damage and flooding in the area of the ASL site. Residents in the vicinity of the ASL site were evacuated because their homes were severely damaged due to the hurricane and flooding. Currently, several single-family dwellings of the Gordon Plaza subdivision, the Gordon Plaza Apartments, the Press Court town homes, and retail businesses are not occupied. Several other single-family dwellings of the Gordon Plaza subdivision are in the process of reconstruction.

#### 3.1.1 Geology

The ASL site lies within the Pontchartrain Basin in the Mississippi River Deltaic Plain. The shallow subsurface geology (less than or equal to 100 feet below ground surface [bgs]) in the site area is a mixture of fine-grained materials, including peat, which is typical of a marsh/swamp depositional environment. Surficial soils usually are clayey silts or sandy silts. Below the surficial units, a gray clay or organic clay containing roots and other plant matter is encountered. A discontinuous peat layer may be encountered

within this clay. The peat layer has been reported to be 5 to 10 feet thick in some areas of the site. A sequence of silty clays and sandy clays with interspersed silt and sand lenses is encountered beneath the clay/peat unit. A fine-grained sand has been encountered below a depth of 50 feet. Based on available data, this sand unit is more than 50 feet thick and is assumed to be part of the Pine Island Beach Trend (EPA, 2003).

Near-shore gulf deposits and late Pleistocene-age Prairie Formation sediments underlie the Pine Island Trend and overlie the sedimentary sequence that comprises the New Orleans aquifer system. This aquifer system reportedly extends to a depth of approximately 850 feet bgs in the vicinity of the site. The late Pleistocene-age Prairie Formation consists of firm to stiff sandy and silty clays (EPA, 2003).

### 3.1.2 Hydrogeology

Below the site is found a shallow hydrogeologic unit that includes all water-bearing units above the Prairie Formation, and a deep hydrogeologic unit that includes the four aquifers that comprise the New Orleans aquifer system.

Shallow water-producing deposits (less than a depth of approximately 150 feet bgs) fall into two categories at the site: (1) small isolated near-surface sands that represent buried beaches and other locally deposited sands and (2) point bar and tributary channel sands deposited by the Mississippi River and its tributaries. Locally, the small isolated near-surface sands are not known to contain potable water nor are they extensive enough to supply large quantities of even poor quality water (EPA, 2003).

The deeper hydrogeology of the New Orleans area is characterized by a complex series of alternating beds of sand and clay that comprise the New Orleans aquifer system. The New Orleans aquifer system is normally defined as a series of four sand units from land surface to the base of the “1,200 Foot” aquifer (EPA, 2003). The four major aquifers in this succession, in descending order, are the Gramercy, Norco, Gonzales-New Orleans, and “1,200-Foot” aquifers. The Gonzales-New Orleans aquifer is the only aquifer containing significant quantities of fresh water beneath New Orleans. Because of its areal distribution, thickness, and the availability of fresh water content, it is the only practical choice for consideration as a public supply source (EPA, 2003).

Aquifers of the New Orleans aquifer system are recharged directly by precipitation, by percolation downward through the overlying surficial sediments, and by recharge from the Mississippi River. Recharge from precipitation is sufficient to maintain relatively constant long-term water levels in the aquifers at the outcrop areas. Observations of water levels in shallow wells near the outcrop areas indicate that long-term water levels are not affected by ground water pumping (EPA, 2003).

## 3.2 Land and Resource Use

The historical use of the site was as a municipal landfill for the City of New Orleans. Landfill activities began in approximately 1909 and continued until the landfill was closed in the late 1950s. The landfill was reopened in 1965 for approximately one year for use as a burning and disposal area for debris created by Hurricane Betsy. Current land uses and resource uses (including surface water and ground water) are described in the following paragraphs.

The approximately 95-acre ASL site includes 47 acres that were developed from the 1970s through the late 1980s and supported single-family homes, multiple-family dwellings, retail businesses, an elementary school, a community center, a recreation center, and an electrical substation. The remaining 48 acres of the former landfill are undeveloped and portions are heavily vegetated. A portion of the OU1 area has been recently used for unauthorized dumping of construction debris created during renovations of structures damaged as a result of Hurricane Katrina.

Developed areas near and within the ASL site have historically been and remain predominantly residential, but some commercial, manufacturing, and retail/service businesses were established in the surrounding area. Prior to Hurricane Katrina, the Moton Elementary School yard and the Shirley Jefferson Community Center were used year round for recreational purposes. An extensive railroad network is located west and south of the site, and Interstates 10 and 610 merge approximately 0.5 mile west of the site.

The estimated population residing on the site prior to Hurricane Katrina was 1,137 persons with an average household occupancy of 3.05 persons (**EPA, 2003**). The Gordon Plaza Apartments, the Press Court town homes, and some of the single-family dwellings in the Gordon Plaza subdivision were abandoned as a result of the flooding left by Hurricane Katrina, resulting in a reduction in population in the area. Several single-family dwellings are still occupied by property owners and several other single-family dwellings are in the process of reconstruction. Currently, the Shirley Jefferson Community Center, the Moton Elementary School, and retail businesses are closed to the public. The current population at the ASL site is unknown. Of the 374 households present on the ASL site, 170 units are owned and operated by the Housing Authority of New Orleans (HANO); 128 units are part of the Gordon Plaza Apartment complex; and 67 units are single-family dwellings (**EPA, 2003**).

The principal surface water bodies in the general site vicinity are Lake Pontchartrain, the Mississippi River, and surface water canals. The main surface water features in the immediate site vicinity are the Peoples Avenue Canal and the Florida Avenue Canal. During periods of low flow, water from the Florida Avenue Canal is pumped into the Mississippi River. During periods of high flow, water is pumped into

the Industrial Canal (also known as Inner Harbor Navigation Canal). The Industrial Canal flows north and eventually discharges into Lake Pontchartrain. During the removal action conducted at OU1, OU1 was graded to direct storm water runoff away from the adjacent residential area. Storm water runoff at the site is directed to the Peoples Avenue Canal, to the west of the site, and the Florida Avenue Canal, to the south, by way of a network of storm drains (EPA, 2003).

Lake Pontchartrain is used for recreational activities and fishing on a limited basis. In addition, several municipalities in the area reportedly use Lake Pontchartrain for treated sewage disposal. The lake is not used as a drinking water source. The Mississippi River has been the primary source for municipal drinking water and other water requirements in the greater New Orleans area since approximately 1907. The Mississippi River and the Inner Harbor Navigation Canal are used extensively for commerce (EPA, 2003).

Ground water for commercial use is drawn primarily from the Gonzales-New Orleans aquifer. In 1986, the major pumping stations were located in proximity to the University of New Orleans, the Industrial Canal area north of U.S. Highway 90, the Michoud area, and downtown New Orleans. Although used for commercial purposes, 28 of the Gonzales-New Orleans aquifer wells are designated as emergency drinking water supply wells. Based on information provided in the Remedial/Removal Integrated Investigation (RRII) report prepared by Ecology and Environment, Inc., “of these 28 wells, one well appears to be located within one mile of the site; five appear to be located within two miles of the site; four appear to be located within three miles of the site; and three appear to be located with four miles of the site” (EPA, 2003). As of 1986, pumpage had declined to approximately 30 million gallons per day (gpd) from a high of approximately 43 million gpd in 1969. No usage of shallow ground water in the site area has been reported (EPA, 2003).

### 3.3 History of Contamination

The ASL site was first authorized for use as a dump in 1909, when the City of New Orleans was engaged in an effort to phase out the dumping of municipal wastes and trash into various canals in the vicinity and into the Mississippi River. As of 1913, disinfectants were applied to the garbage at the dump and starting in 1914, oil was used to burn all refuse received at the dump. Refuse was reportedly composed of household waste collected through city collection systems, and commercial waste brought to this and other dumps by producers and private transporters (EPA, 2003).

A 1921 plan was approved by the City of New Orleans that established the ASL site as the receiving point for the City’s refuse. In 1922, the 400 tons of refuse produced each day by the residents of New Orleans were primarily disposed of at this landfill. Throughout the 1920s and 1930s, the ASL site continued to be

used as the primary waste disposal area for New Orleans (**EPA, 2003**).

In 1948, area residents began to complain about the smell and smoke from occasional dump fires. In response to uncontrolled fires and trespassers at the dump, the City transformed a portion of the dump into a sanitary landfill. Reportedly, during the 1940s and 1950s, the ASL site area was routinely sprayed with the pesticide dichloro-diphenyl-trichloroethane (4,4'-DDT) (**EPA, 2003**).

On October 1948, the city began excavation on the northern part of the site to create the sanitary landfill. Trenches were excavated, cleared with draglines, and prepared to receive wastes, which were to be covered with earth. Three cells were excavated to receive refuse. The landfill continued to receive increasing quantities of waste until the City constructed its Florida Avenue and Seventh Street incinerators in 1957 (**EPA, 2003**).

Open burning continued at the landfill, and the public effort to close the facility intensified. According to the Mayor's Annual Report for 1950, a building was constructed as part of the City's recycling effort. Salvageable materials were picked from the refuse and unsalvageable material was landfilled (**EPA, 2003**).

In 1965 and 1966, the ASL site was used on an emergency basis to accept debris and spoiled foodstuffs resulting from Hurricane Betsy in September 1965. Records indicate that approximately 300 truckloads of wastes per day were disposed in the ASL site for a six-month period. Open fires were used to burn much of the debris. The Landfill was officially closed in 1966; however, an aerial photograph from 1967 shows some type of operation continuing at the ASL site (**EPA, 2003**).

In the 1970s, development of portions of the former landfill was initiated by city agencies. Fill was brought into the area for the subsequent construction of multiple-family HANO public housing. In 1975, the Orleans Parish School Board purchased a vacant lot on the ASL site for the purpose of constructing a school. After numerous engineering studies, the school board commissioned the construction of Moton Elementary School in 1985 (**EPA, 2003**).

### 3.4 Initial Response

Prior to 1994, access to OU1, the undeveloped portion of the former landfill, was unrestricted, allowing unauthorized waste disposal and potential exposure to Contaminants of Potential Concern (COPCs) such as lead, arsenic, and carcinogenic Polynuclear Aromatic Hydrocarbons (cPAHs) found in the surface and subsurface soil. In a time-critical removal action implemented concurrently with the RRII, EPA installed an eight-foot high, chain link fence topped with barbed wire around the entire undeveloped portion of the former landfill (OU1). Fencing activities were conducted from March through May 1994. Several gates

were installed to facilitate vehicular access by utility companies to electrical lines that traverse the site (EPA, 2003).

The RRII fieldwork was conducted from April 4 through June 20, 1994. Samples of surface and subsurface soil, sediment, surface water, ground water, indoor and outdoor air, dust, tap water, garden produce, and paint chips collected during the field investigation were submitted to laboratories for analysis (EPA, 2002a).

EPA conducted a second time-critical removal action at the site in February 1995 based on information presented in the RRII report. The removal action consisted of removing playground equipment and covering contaminated soil at OU3 with heavy grass sod. A third time-critical removal action was completed in March 1996 by EPA to repair the fence surrounding OU1, which had been damaged by trespassers. In addition, EPA conducted an Engineering Evaluation and Cost Analysis (EE/CA) to evaluate alternative removal actions for the site.

In September 1997, EPA issued an Action Memorandum authorizing a Non-Time Critical Removal Action for OU1, OU2, and OU3. The removal action on OU1, described more completely in the 1997 Action Memorandum, consisted of clearing the 48-acre area, grading it to direct storm water runoff away from the residential area, laying a permeable geotextile mat followed with orange fencing (used as a visible marker), covering the mat/marker with twelve inches of clean fill, and re-establishing a vegetative layer on the clean fill. The removal action on OU2 and OU3 consisted of excavating 24 inches of soil, placing a permeable geotextile mat/marker on the subgrade, backfilling the excavated area with clean fill, covering the clean fill with grass sod, landscaping and yard restoration, driveway and sidewalk replacement, and final detailing. The response action on OU1, OU2, and OU3 was performed in two phases. The first phase began October 15, 1998 and concluded February 2, 2000. The second phase began in August 2000 and concluded in April 2001. After conclusion of the second phase response action, EPA had implemented the removal action on 99% of the site (nine private homeowners elected not to participate in the removal action). At the conclusion of each phase of the response action, a Closeout Completion Package was provided to each owner of property in Operable Unit 1, 2, or 3 who participated in the removal action. The package contained a Closeout Letter; a Certificate of Completion; and instructions on how to maintain the permeable cap, including instructions for any necessary excavation below the geotextile mat/marker. These instructions are provided in [Attachment 6](#) to this five-year review report. Owners of properties that were not part of the response action received a letter and fact sheet from EPA stating that maintaining the surface vegetation will minimize the potential exposure to contaminants in the subsurface soils and will prevent soil erosion. The letter also informed the residents



that the contaminants of concern do not readily dissolve in water, but adhere to soil particles. Thus, in the event of a flood, the contaminants in the subsurface soil are expected to remain in place and not pose an additional risk of exposure to the residents (EPA, 2003).

EPA coordinated with the utility companies serving the communities within the site's boundary. The EPA developed Technical Abstract papers providing instructions for utility repair excavations, which will ensure the continued integrity of the permeable barrier on those properties where it was installed. Instructions for excavation both above and below the geotextile barrier were included in the paper. Copies of the Technical Abstracts were provided to all of the utility companies and also made available at the repositories. The EPA also conducted a field demonstration of excavation and backfill procedures for utility companies at the site on December 1, 1999.

### **3.5 Basis for Taking Action**

The purpose of the response actions conducted at the ASL Superfund Site was to protect public health and the environment from releases or threatened releases of hazardous substances from the site. Exposure to affected soil, ground water, surface water, and sediment was determined to be associated with human health risks higher than the acceptable range. The primary threats that the site posed to public health were direct and indirect contact, ingestion, and inhalation of soil and waste that contain COPCs at concentrations that could pose unacceptable risks to a potentially exposed individual and ecological receptors; and the release of COPC-contaminated dust to the air at concentrations that could adversely affect human health and the environment. There was no identified pathway for exposure to impacted ground water.

## **4.0 Remedial Actions**

No remedial actions have been performed at the ASL site. The time-critical and non-time critical removal actions performed at the site were found to be sufficient to protect human health and the environment, and the RODs for all five OUs specified a remedy of no further action. These actions were all performed prior to the current five-year review period. This section provides a brief description of the remedy selection process described by the RODs. It also describes the ongoing maintenance procedures required to maintain the cover placed during the removal actions.

### **4.1 Remedy Objectives**

The objective of any selected remedy is to protect human health and the environment. For the ASL site, abatement of risks to human health and the environment from site contaminants was accomplished by completion of early removal actions and a large-scale non-time-critical removal action (EPA, 2002a).

## 4.2 Remedy Selection

The ROD for OU1, OU2, and OU3 was signed on April 4, 2002. The ROD for OU4 and OU5 was signed on September 2, 1997. Because previous actions were found to have addressed unacceptable risks posed by site contaminants, EPA determined that No Further Action was the selected remedy necessary to protect public health or welfare or the environment at OU1, OU2, OU3 (**EPA, 2002a**), and OU4 (**EPA, 1997**). No further action was also selected for OU5 (ground water) due to a lack of exposure pathways (**EPA, 1997**).

## 4.3 Remedy Implementation

Based on the time-critical and non-time-critical removal actions performed and the findings described in the RODs for OU1, OU2, OU3, OU4, and OU5, no further action was the selected remedy, and no remedial action was performed. The time-critical and non-time-critical removal actions performed at the site provided for the protection of human health and the environment.

## 4.4 Operations and Maintenance

Because hazardous materials remain onsite following the time-critical and non-time-critical removal actions, certain Operations and Maintenance (O&M) activities are required to maintain the protectiveness of the remedy. O&M activities involve maintenance of the soil/geotextile and vegetative covers. These maintenance activities are to be provided by each property owner. Post-closure care of the clean soil/geotextile and vegetative cover consists of routine activities to maintain the integrity of the surface soil and vegetation on each property. Surface maintenance includes filling holes above the geotextile barrier with clean soil and continued cultivation of vegetation to ensure a healthy cover over the clean fill. In the event that excavation below the geotextile barrier is required, EPA also provided property owners with procedures for excavation of soil from below the barrier and restoration of the geotextile barrier (**EPA, 2003**).

Instructions for maintenance of the cover were provided for each OU property owner when the site work was completed, in the form of a Closeout Letter for OU1, OU2, and OU3 Property Owners. These instructions are reproduced as Attachment 6 to this five-year review report. A follow up letter was also sent to OU1, OU2, and OU3 property owners to provide supplemental information regarding the importance of the Certificate of Completion provided in the Closeout Letter, the potential impact a natural disaster might have on the properties, and the status of plans to review the soil removal action (**EPA, 2002a**).

The EPA also coordinated with the utility companies serving the communities within the site's boundary.

The EPA developed Technical Abstract papers providing instructions for utility repair excavations that will ensure the continued integrity of the permeable barrier on those properties where it was installed. Instructions for excavation both above and below the geotextile barrier were included in the paper. Copies of the Technical Abstracts were provided to all the utility companies and also made available at the repositories. The EPA also conducted a field demonstration of excavation and backfill procedures for utility companies at the site on December 1, 1999 (EPA, 2003).

Access to OU1 is currently restricted by an eight-foot high chain-link security fence with locked gates. Semiannual inspections of the fencing, gates, and the soil cover are performed by LDEQ personnel. The Action Memorandum called for removal of the fence around OU1 once the non-time-critical removal action was completed; however, at the request of OU1 property owners, EPA left the fence in place at the conclusion of the removal action.

#### **4.5 Progress Since Initiation of Removal Actions**

As part of the removal actions performed for the site, approximately 69,032 tons of material were excavated and disposed. Approximately 70,081 cubic yards of sand backfill, and 125,865 cubic yards of topsoil were used in backfill, capping, and restoration on the site. Also, 55,732 square yards of sod were installed. Fences, gates, asphalt and concrete roadways, driveways, and sidewalks removed or damaged during the removal action were replaced or repaired (EPA, 2003). At the conclusion of these removal actions, EPA and LDEQ agreed that response actions for the site were complete and that no further action was required, and information describing care of the site was distributed to property owners and utility companies.

### **5.0 Progress Since the First Five-Year Review**

The First Five-Year Review of the ASL site was signed on June 30, 2003. The findings of the first five-year review, the status of recommendations and follow-up actions, the results of implemented actions, and the status of any other issues are described in the following sections.

#### **5.1 Impacts from Hurricanes Katrina and Rita**

On August 29, 2005, Hurricane Katrina made landfall on the southeast coast of Louisiana, near the City of New Orleans, resulting in severe damage from wind and flooding. Several of the flood-protection levees failed as a result of the hurricane, and most of the City of New Orleans, including the ASL site, was flooded. On September 24, 2005, Hurricane Rita made landfall near the Louisiana/Texas border, and parts of New Orleans were again flooded. However, the ASL site was not flooded by Hurricane Rita. As a result of both hurricanes, EPA performed an assessment of NPL sites to determine if site conditions or

remedies already in place were adversely impacted (**EPA, 2006**). On September 25, 2005, EPA collected nine samples of flood-deposited sediments as part of the EPA's characterization of post-hurricane conditions. The samples were analyzed for a range of metals and semivolatile organic compounds (**DHHS, 2006**). On October 1 and 2, 2005, a site inspection was performed and soil samples were collected at the ASL site as part of this assessment. These samples were analyzed for lead and arsenic content only. In October 28, 2005, additional sediment samples were collected at the ASL site.

The purpose of the inspection and sampling events were to assess the impact Hurricanes Katrina and Rita may have had at the site. The sampling included analysis of lead, the contaminant of concern identified for the site, as well as a range of metals and semivolatile organic compounds. The results of the sampling indicated that flooding did not cause any upward movement of lead through the remediated soils, and EPA determined that the remedy for the ASL site was not affected by Hurricane Katrina. However, samples of sediments deposited by flooding in the area were found to contain levels of benzo(a)pyrene that exceeded LDEQ RECAP criteria. On February 16 and 17, 2006, EPA and LDEQ collected additional sediment samples to re-examine the levels of benzo(a)pyrene at the site (**EPA, 2007a**). The U.S. Department of Health and Human Services prepared a Health Consultation on August 29, 2006, in response to the Hurricane Katrina sampling assessment for the ASL site. The goals of the Health Consultation were to determine whether sediments introduced by floodwaters at the ASL site posed a threat to human health and to establish what further public health actions, if any, may be needed at the ASL site (**DHHS, 2006**).

## 5.2 Consent Decree Between EPA and the City of New Orleans

On January 23, 2008, the City of New Orleans agreed to a Consent Decree with the United States of America on behalf of the Administrator of the EPA. The objectives of entering into the Consent Decree are to protect the remedy at the ASL site and thus protect public health and the environment. Although both parties have agreed on the terms of the Consent Decree, the Decree has not been lodged with the United States District Court. The Department of Justice will publish in the Federal Register a Notice informing the public that the proposed Consent Decree has been lodged with the Court, and solicit public comment for a period of thirty days. After the close of the comment period, the United States will evaluate the comments received, if any, and advise the Court whether the United States requests entry of the Consent Decree. A copy of the Consent Decree is presented in [Attachment 8](#).

The Consent Decree states that the City of New Orleans shall conduct and/or implement the following work in order to maintain the cap and provide for appropriate restrictions on use and excavation of the undeveloped property OU1 (**CNOLD, 2008**):

- Maintain and repair the security fence around the OU1 undeveloped property for a period of ten years from the date of entry of the Decree or until the site is delisted from the NPL, or EPA otherwise approves the removal of the fence, whichever is sooner.
- Mow the vegetation at least twice per year, and otherwise maintain its rights of way within OU1, in order to maintain a stable vegetative cover. In addition, the City will use its available authorities to (a) require that landowners mow and otherwise maintain the grass vegetation on their properties or (b) undertake the necessary maintenance directly.
- Provide within 60 days from the date of entry of the Decree, the Technical Abstract for Utilities within the ASL site to all utilities operating within the ASL site area.
- Within 60 days from the date of entry of the Decree, the City of New Orleans will join and maintain its membership in the LAOne Call program and designate an office within the city as a point of contact to provide the Technical Abstract for Utilities Operating within the ASL site to be followed when excavating beneath the geotextile mat at the site.
- Within 60 days from the date of entry of the Decree, the City of New Orleans will direct that all of its agencies and departments, including the SWB of New Orleans, incorporate the Technical Abstract for Utilities Operating within the ASL site as standard operating procedures when working within the site.
- The City of New Orleans will ensure that within 60 days of entry of the Decree and on an annual basis thereafter, the SWB includes in bills to customers owning or renting property at the site the protocol for Post- Removal Maintenance for Property Owners. Alternatively, within 60 days of entry of the Decree and on an annual basis thereafter, the City of New Orleans will mail the protocol to property owners and renters at the ASL site.
- Within 45 days from the date of entry of the Decree, the City of New Orleans will designate an appropriate landfill facility for the disposal of soils excavated and removed from beneath the geotextile mat. This disposal facility shall be identified in the Technical Abstract for Utilities Operating within the ASL site and in the protocol for Post-Removal Maintenance for Property Owners.
- Within 30 days of entry of this Decree, the City of New Orleans will designate an official of the City as the Project Coordinator who will be responsible for ensuring the City's compliance with the requirements of the Decree.

- In addition, the implementation of Access and Institutional Controls (ICs) were included as part of the Consent Decree.

The Consent Decree also states that commencing on the date of lodging of the Decree, the City of New Orleans shall refrain from using the ASL site in any manner that would interfere or adversely affect the implementation, integrity, or protectiveness of the remedy. Site use and activity restrictions include, but are not limited to, disturbances to the surface or subsurface of the ASL site, including filling, drilling, excavation, or construction on the site, that is unrelated to the remedy measures implemented at the ASL site, unless such excavation is consistent with the Technical Abstract for Utilities. The Consent Decree states that in order to implement these restrictions, the City of New Orleans will have to execute and record in the Recorder's Office (or Registry of Deeds or other appropriate land records office of Orleans Parish, State of Louisiana), an environmental protection easement. The easement is intended to run with the land that grants a right of access for the purpose of conducting any activity related to the Consent Decree. The City of New Orleans shall grant the access rights and the rights to enforce the land use restrictions to the United States, on behalf of EPA, and its representatives, and the State and its representatives (CNOLD, 2008).

The Consent Decrees includes an additional restriction on excavations within the ASL site in the form of a zoning ordinance and/or excavation permit requirement, to be enacted by the City of New Orleans, to protect and ensure the integrity and protectiveness of the remedy. The Consent Decree requires the City of New Orleans to submit to EPA for approval, a proposed zoning ordinance and/or permit requirement. The intent of the proposed permit requirement/zoning ordinance is to require owners or lessees of land within the ASL site who seek to excavate soil to a depth of greater than 18 inches to provide notice to the appropriate City department of their intent to excavate and to comply with the Post-removal maintenance instructions for the site for the handling of contaminated soils and repair of the soil/geotextile mat. The notice should be provided no less than 3 days prior to the proposed excavation, and be available to those persons in a timely and readily accessible manner. The City of New Orleans has adopted Ordinance No. 22,893 Mayor Council Series (M.C.S.), which imposes the permitting requirement for excavations in the area of the ASL site as required by the Consent Decree. A copy of the city ordinance is presented in [Attachment 9](#). Detailed information regarding Access and ICs can be found in the Consent Decree provided in [Attachment 8](#).

### 5.3 Protectiveness Statements from First Five-Year Review

The first five-year review concluded that the response actions performed at the site are considered protective of human health and the environment because the waste has been removed or contained and

protected from erosion, and a barrier has been constructed to prevent exposure to the remaining impacted soil. Because the completed response actions for the ASL site are considered protective with the existence of surface vegetation and a soil barrier covering subsurface contaminants that are expected to remain in place over time, the remedy for the site, including all five OUs, is protective of human health and the environment, and will continue to be protective if the action items identified in this five-year review are addressed.

## 5.4 First Five-Year Review Recommendations and Follow-up Actions

The first five-year review of the ASL site, signed on June 30, 2003, recommended the following follow-up actions:

- First, measures should be adopted to remind the property owner of OU1, where rutting was observed, to maintain the cover. Instructions and specifications for maintenance should be included in the reminder. Also, additional guidance should be provided to OU property owners for handling/disposal of soils excavated below the barrier that cannot be returned to the excavated area beneath the barrier to limit potential exposure to these materials. Finally, procedures should be established for forwarding maintenance instructions to new property owners.

## 5.5 Status of Recommended Actions

The current status of implementation of the recommendations included in the first five-year review report is summarized in [Table 2](#).

## 6.0 Five-Year Review Process

This second five-year review for the ASL site has been conducted in accordance with EPA's Comprehensive Five-Year Review Guidance dated June 2001 (**EPA, 2001**). Interviews were conducted with relevant parties; a site inspection was conducted; and applicable data and documentation covering the period of the review were evaluated. The activities conducted as part of this review are described in the following sections.

### 6.1 Administrative Components

The five-year review for this site was initiated by EPA. The review team was led by the EPA Remedial Project Manager (RPM) for this site, Ms. Ursula Lennox/EPA Region 6. Agency representatives assisting the review team included Mr. Rich Johnson, LDEQ, and Ms. Nora Lane, LDEQ, who provided information related to the ASL site and assistance during the ASL site inspection. The components of

the review included community involvement, document review, data review, a site inspection, interviews, and development of this Second Five-Year Review Report.

## 6.2 Community Involvement

A public notice announcing initiation of the second five-year review was published in *The Times-Picayune* during December 2007. Upon signature, the five-year review report will be placed in the information repositories for the site, including the LDEQ office in Baton Rouge, Louisiana; and the EPA Region 6 office in Dallas, Texas. A public notice will be published in *The Times-Picayune* to summarize the findings of the review and announce the availability of the report at the information repositories. Copies of the two public notices are provided in [Attachment 5](#) to this report.

## 6.3 Document Review

The second five-year review for the ASL site included a review of relevant site documents, including decision documents, construction and implementation reports, the first five-year review report, EPA Fact Sheet, Hurricane Katrina Evaluation Report, and the Health Consultation report. Documents that were reviewed are listed in [Attachment 1](#).

## 6.4 Data Review

The only data collected during the second five-year review period was performed as part of the site assessment completed in response to Hurricanes Katrina and Rita. The EPA conducted a site inspection at the ASL site on October 1 and 2, 2005, and collected soil samples at the ASL site as part of this assessment. Additional sediment samples were collected on October 28, 2005. Lead was the contaminant of concern addressed by the removal actions at the ASL site. The lead concentrations found in the hurricane assessment samples were compared to the lead cleanup level for the site of 480 parts per million (ppm) in the surface soil. The highest concentration of lead found in all the samples collected was 363 ppm. The average concentration of lead amongst all the samples was 15 ppm. On February 3, 2006, EPA published a Hurricane Katrina Evaluation Report documenting an evaluation of the effects of Hurricane Katrina at the ASL Superfund Site. The report determined that Hurricane Katrina did not impact the response action implemented at the site and that routine inspections of the site will be conducted to ensure the integrity of the permeable cap is maintained (**EPA, 2006**).

Although the remedy for the site was not impacted by the hurricane, samples of sediments deposited by flooding in the area contained levels of benzo(a)pyrene, a COPC at the site that exceeded LDEQ RECAP criteria. Thus, EPA and LDEQ conducted further sampling of sediments in the area on February 16 and 17, 2006, to re-examine the levels of benzo(a)pyrene at the site (**DDHS, 2006**).



On August 29, 2006, the U.S. Department of Health and Human Services prepared a Health Consultation in response to the Hurricane Katrina sampling assessment for the ASL site. The primary goals of this Health Consultation were to determine whether sediments introduced by floodwaters at the ASL site posed a threat to human health and to establish what further public health actions, if any, may be needed at the ASL site. The consultation concluded that the majority of the contaminants detected in flood-deposited sediments and soils at the ASL site posed no apparent public health hazard to residents at the site. PAH concentrations of concern were found at the north end of the site. Benzo(a)pyrene concentrations appeared to have undergone degradation from the first sampling event conducted on October 28, 2005, to the most recent sampling event conducted on February 2006, but no follow-up data were available for the other PAHs detected in the initial site sampling event. Therefore, the PAH concentrations were determined to pose an indeterminate public health hazard at the site (DHHS, 2006).

## 6.5 Interviews

Interviews were conducted with Mr. Rich Johnson/LDEQ; Ms. Wynecta Fisher/Director, Mayors Office of Environmental Affairs for the City of New Orleans; Mr. John Etter/Outside Council for the Housing Authority of New Orleans (HANO); and two community representatives (Mr. Samuel Robertson and Ms. Dot Wilson). Copies of the Interview Record Forms are provided in [Attachment 2](#).

Mr. Rich Johnson participated in the interview as a state representative on behalf of LDEQ. He indicated that the work performed by LDEQ since the last five year review included annual site inspections. He further stated that, due to the irregularities caused by Hurricane Katrina and Rita, LDEQ had been to the site five or six times. Mr. Johnson stated that conveyance notifications were filed at the Orleans Parish Conveyance Office for the nine properties that elected not to participate in the removal action performed at OU2. He indicated that the conveyance notices were filed by LDEQ at the request of EPA. Mr. Johnson pointed out that some construction debris and rubble was illegally dumped on the site, through a broken gate, largely in the unoccupied area of the site (OU1). Mr. Johnson explained that several inspections have been performed in response to the dumping, and several gates were re-locked to prevent site access. Mr. Johnson indicated that with the exception of the dumping, there have been no effects at the ASL site following the storm.

Ms. Wynecta Fisher participated in the five-year review interview on behalf of the City of New Orleans. Ms. Fisher indicated that after Hurricane Katrina, testing was performed at the ASL site to ensure that contaminants had not migrated from the site. The test results that came back unfavorable were repeated to ensure that everything was within the state's RECAP (this testing is described in [Section 6.4](#)). She stated

that she was not aware of any ongoing effects the remedial actions have had on the surrounding community. However, she was aware of ongoing community concerns. Ms. Fisher indicated that the residents are concerned that the cap was disturbed and that residents have contacted her to inquire about discrepancies in testing results between sampling performed by the Natural Resources Defense Council (a public interest and environmental action organization) and the governmental agencies after Hurricane Katrina. Ms. Fisher also indicated that there has been dumping and trespassing in the OU1 area, but that catching the trespassers/violators has been a difficult task to accomplish. Ms. Fisher also pointed out that institutional control measures have been adopted by the City for the ASL site, which include maintaining the soil cap through direct maintenance (mowing the grass, preventing any shrubbery or trees from growing on the vacant site); adopted an ordinance requiring an excavation permit prior to digging on the site; mailing notices in property owners' SWB bills; and provide future owners with notice of the environmental condition of the site by recording a copy of the excavation permit ordinance in their chain of title.

Ms. Dot Wilson, Director of the Desire Florida Community Council, also participated in the five year review interview. She indicated that overall, everything seems to be fine at the ASL site and there have not been any complaints received from the residents. She also mentioned that prior to Katrina, she was aware of no reports of negative effects. She expressed concerns related to areas of the city that were flooded, including the ASL site that may have been impacted by contamination. Ms. Wilson stated that EPA should investigate the ASL site and remediate if necessary (the EPA response actions taken after Hurricane Katrina at the ASL site are described in [Section 6.4](#)). Ms. Wilson also mentioned concerns related to the dumping that has occurred on the OU1 property.

Mr. John Etter provided responses to interview questions on behalf of HANO. Mr. Etter stated that most of the site, including HANO's Press Park properties, suffered significant flood and wind damage due to Hurricanes Katrina and Rita. He indicated that HANO was aware of EPA's testing and findings at the site performed in late 2005. Mr. Etter pointed out that in ongoing state court litigation, community residents expressed concerns about EPA's remedial actions and that media reports have noted ongoing community concerns about the site after Hurricane Katrina. He also mentioned that HANO personnel are regularly at the site, in the course of managing the Press Park development, and that HANO has not performed environmental testing at the site. Mr. Etter indicated that HANO's most damaged properties at the site have been fenced off, and that HANO and contractors are working to remove trash and debris that has been dumped on HANO's property. Finally, Mr. Etter stated that HANO is working on plans to redevelop their property at the site, including demolition. This decision is still under review. He stated that HANO is and will remain in consultation with EPA regarding the actions that are implemented on

their properties at the ASL site.

An interview response was received from Mr. Samuel Robertson, a local resident at the ASL site. Mr. Robertson indicated that vegetation in the undeveloped property OU1 is overgrown and that the site has become a dumpsite. He stated that he is also concerned about what is going to be done with the abandoned town homes in Press Park, and he would like to see the OU1 fence better maintained. He indicated there were still concerns regarding the protectiveness of the removal actions conducted at the site, especially after the Hurricane Katrina flooding.

## 6.6 Site Inspection

The EPA coordinated efforts with LDEQ and their counterparts and a site inspection was conducted at the ASL site on November 13-14, 2007. The completed site inspection checklist is provided in [Attachment 3](#). Photographs taken during the site inspection are provided in [Attachment 4](#).

General site conditions on OU1, the undeveloped property, are presented in [Photographs No. 1-8, 10-15, 34, and 41-43](#). Conditions at OU2, the residential properties, are presented in [Photographs No. 16-18, 20-24, 26-33, 35-39, 46-50, 17, 18, and 45](#). Site conditions at OU3, the Shirley Jefferson Community Center, are presented in [Photographs No. 25 and 40](#). Site conditions at OU4, the Moton Elementary School, are presented in [Photographs No. 19, 44, and 45](#).

Operable Unit 1 is currently surrounded by an eight-foot high chain-link fence, with coiled barbed-wire along the top. Inspection of the entire OU1 property was not possible due to dense vegetation. During the site inspection, access to OU1 was not restricted. The fence has several gates to restrict access to this area; however, two of the gates were not secured ([Photographs No. 4 and 10](#)). The gate on the west side of the OU1 fence, parallel to Almonaster Boulevard, ([Photograph 4](#)) had been forced apart to allow unauthorized access. The interviews indicate that the site was being used as a dumpsite for debris originating from Hurricane Katrina clean up and reconstruction activities. Several mounds of construction debris and trash are currently sitting at the north end of OU1 ([Photographs No. 2, 3, and 5](#)). The gate located at the intersection of St. Ferdinand Street and Abundance Street did not have a lock, and it was secured only by a rubber strap tie ([Photograph 4](#)). A section of the east perimeter fence ([Photograph 15](#)), located near the intersection of St. Ferdinand Street and Abundance Street was damaged. Most of the perimeter fence is overgrown with vegetation and several sections of the fence appear to be in disrepair. Trash and construction debris has been discarded at several locations along the outer side of the fenceline ([Photograph 9](#)).

The southern portion of OU1 is covered with heavy vegetation consisting of Bermuda grass, weeds and

shrubs (**Photographs No. 11-13**). Several medium size trees were found growing at OU1 (**Photograph 14**). In general, most of the south portion of OU1 is covered with dense vegetation (**Photographs No. 41-43**).

During the first five-year review inspection, it was observed that a portion of the northern section of OU1 was being used to store an assortment of vehicles consisting of cars, trucks, trailers and Mardi Gras floats. Most of the vehicles had been removed from the OU1 site and only a semi-trailer was present during the current site inspection (**Photograph 8**). Several piles of trash, debris, and used car parts are now located in this area. One structure remains onsite (**Photograph 10**). This building may have been part of the former incinerator facility at the landfill and was likely used as a salvage building where recyclable or recoverable materials were separated from waste materials to be landfilled. Inside the building, Mardi Gras decorations were observed, and it appears that the building may be used by trespassers or homeless people.

Overall, the front yard grass and landscaping at most of the single family dwellings appear to be in good condition even though some of the dwellings are not being occupied (**Photographs No. 16-17, 21-22, 27, 29, 31-33, and 48**). In most of the single-family dwellings, the grass is being mowed and maintained with the exception of a few homes (**Photographs No. 31 and 33**). Several homes are currently being occupied and reconstruction activities are ongoing at a number of homes. Some homes still have trailer homes provided by the Federal Emergency Management Agency (FEMA) parked on the front yard (**Photographs No. 18, 21, 29, 31, and 32**). These trailer homes were provided to residents affected by Hurricane Katrina flooding. Overall, there was no evidence suggesting that the remedy implemented at OU2 was impacted by the flooding. Currently, all of the Press Park town homes and the Gordon Plaza Apartments are vacant and access is restricted to residents (**Photographs No. 20, 23, 24, 26, 35-37 and 46, 47, 49, and 50**). Most of these properties were severely damaged as a result of flooding and are currently uninhabitable.

**Photographs No. 25 and 40** were taken at the Shirley Jefferson Community Center. The grass is overgrown all around the building and the exterior of the building is in poor condition. A section of the parking lot (**Photograph 16**) had what appeared to be pieces of rock or brick scattered over it. In addition, several leaking fire hydrants and/or water mains were observed within OU2 along Press Street (**Photographs No. 30, 35, 37, 48-50**).

## 7.0 Technical Assessment

The five-year review must determine whether the remedy at a site is protective of human health and the

environment. The EPA guidance describes three questions used to provide a framework for organizing and evaluating data and information and to ensure all relevant issues are considered when determining the protectiveness of a remedy. These questions are assessed for the site in the following paragraphs. At the end of the section is a summary of the technical assessment.

## **7.1 Question A: Is the Remedy Functioning as Intended by the Decision Documents?**

The documents that detail the response action decisions for the site are the September 1997 Action Memorandum for Non-Time Critical Removal Action at OU1, OU2, and OU3, the September 1997 ROD for OU4 and OU5, and the April 2000 ROD for OU1, OU2, and OU3. EPA and LDEQ have concurred that the response actions for the site defined by these documents are complete. Based on the data review, the site inspection, and interviews, it appears that the selected response actions (removal actions followed by a No Further Action ROD) are functioning as intended by the decision documents. Early indicators of potential remedy problems and institutional controls are described below.

Opportunities for Optimization. Opportunities for optimization do not apply at the ASL site.

Early Indicators of Potential Remedy Problems. There were no observed indicators of potential problems that would impact the protectiveness of the remedy at the ASL site. However, some maintenance issues were identified at OU1 that need to be addressed so the remedy implemented at the ASL site continues to be protective. The vegetation across OU1 is overgrown, limiting the ability to directly observe the condition of the soil cover. An area of OU1 was observed to be used as a dumpsite for construction debris and the gates were unlocked. In addition, the fence installed at OU1 is in disrepair at some locations along the perimeter. Overgrown grass was also observed at several residential properties at OU2 and the Shirley Jefferson Community Center. In addition, several leaking fire hydrants and/or water mains were observed within OU2 along Press Street. Erosion of the soil cover was not observed during the site inspection where the leaks were observed, but the potential exists for erosion to occur if the leaks are not addressed.

Institutional Controls. The undeveloped property (OU1) is currently zoned as commercial/light industrial, preventing land development of the property for residential use. The comment period for the Notice of Intent to Delete the site from the National Priorities List concluded on October 25, 2004. Institutional control measures have been implemented for the ASL site by means of Ordinance No. 22,893 M.C.S., which was adopted by the New Orleans City Council on November 15, 2007. The ordinance requires a permit for excavation within the ASL area in order to ensure that any excavation is performed in accordance with the protocols established by EPA.

## 7.2 Question B: Are the Exposure Assumptions, Toxicity Data, Cleanup Levels, and Remedial Action Objectives Used at the Time of the Remedy Selection Still Valid?

**Changes in Exposure Pathways, Toxicity, and Other Contaminant Characteristics.** There have been no changes in human health or ecological exposure pathways for the site since completion of the first five-year review. In addition, no new contaminants or routes of human exposure have been identified for the site as part of this five-year review. Post-remediation site conditions have eliminated or reduced human health exposure pathways present at the site.

**Changes in Applicable or Relevant and Appropriate Regulations (ARARs).** The RODs for the ASL Site selected no further action to address the site, and therefore no ARARs were identified in the RODs. The ARARs for this site were identified in the EE/CA report dated August 1996. The five-year review for this site included identification of and evaluation of changes in the EE/CA-specified ARARs to determine whether such changes may affect the protectiveness of the selected remedy. Four ARARs were identified for the ASL site. The ARARs identified by the EE/CA for the site include the following:

1. Standards for the containment and control of storm water runoff. During large scale soil operations at the site, the appropriate regulation for the containment and control of storm water would be Louisiana Administrative Code (LAC) 33:IX.3.
2. Air regulations for fugitive emissions/dust control during soil operations at the site would be LAC 33:III.7.
3. There are notification requirements for any nonhazardous soil/waste material excavated from the site and disposed of at a commercial solid waste disposal facility located in the State of Louisiana, per Louisiana Revised Statutes 30:2154. Specifically, it is unlawful for a solid waste disposal facility to receive solid waste from the cleanup of a Superfund site without notifying LDEQ 30 days prior to the arrival of the waste.
4. Transportation of site soil/waste material to an off-site disposal facility must be done in accordance with the federal Department of Transportation rules for the transportation of waste materials (49 CFR Parts 107, 171.1-172.558).

Two potential ARARs, one for ground water and one for municipal solid waste landfill closure regulations, were evaluated as part of the EE/CA. The potential ARAR for ground water was represented by Maximum Contaminant Levels (MCLs) for drinking water. The LDEQ has indicated that the shallow ground water beneath the site is not suitable for human consumption and should not be considered a potential source of drinking water (EPA, 2003). Therefore, MCLs are not considered ARARS for the

site. Also, because the shallow ground water beneath the site is not suitable for human consumption, long-term ground water monitoring is not included as a component of any of the alternatives (EPA, 2003).

The solid waste landfill closure requirements were set by Louisiana solid waste management regulations. Provisions detailing the requirements for landfill closure and post-closure care are the Louisiana solid waste management regulations (LAC 33:vII.711.E and F). However, based on correspondence from LDEQ, the Louisiana solid waste regulations are not an ARAR for the site because the landfill was closed before 1982, when Louisiana's regulations were implemented (EPA, 2003).

EPA Region 6 Risk Based Concentrations (RBCs) have been identified as To be Considered (TBC) requirements. RBCs are not regulations or guidance; they are concentrations of chemicals in soil that correspond to an estimated excess cancer risk of  $1 \times 10^{-6}$  for an age-integrated residential receptor (exposure during childhood and adult years combined) using standard default exposure assumptions, and are intended to serve as a screening mechanism for COPCs at a site. If the concentrations of a COPC exceed its respective RBC, further action may be warranted at the site.

The LDEQ regulations have not been revised to the extent that the effectiveness of the remedy at the site would be called into question, although new standards have been set for arsenic levels in soil.

The EE/CA compared EPA Region 6 RBC levels to site soil concentrations. The lead RBC was 480 milligrams per kilogram (mg/kg – mg/kg is equivalent to ppm) and the arsenic RBC was 0.370 mg/kg (EPA, 2003). The current EPA Region 6 Human Health Medium Specific Screening Levels (MSSLs) for arsenic and lead for residential exposure are 22 mg/kg and 400 mg/kg, respectively. The State of Louisiana adopted the RECAP in December 1998, and became final on October 20, 2003. The RECAP soil standards for arsenic and lead for surface soil and potential surface soil at non industrial sites are 12 mg/kg and 400 mg/kg, respectively. The EPA Region 6 MSSL and LDEQ RECAP standard for lead in soil are lower than the lead RBC used as the cleanup goal at the site. However, the highest lead level detected in the soil samples collected during the post-Katrina sampling event was 363 mg/kg, which was lower than 400 mg/kg (Section 6.4). These standards may be considered if additional response actions are found to be required at the site in the future.

### **7.3 Question C: Has any Other Information Come to Light that Could Call into Question the Protectiveness of the Remedy?**

Examples of other information that might call into question the protectiveness of the remedy include potential future land use changes in the vicinity of the site or other expected changes in site conditions or

exposure pathways; no such information has come to light as part of this second five-year review for the site. However, it is unclear what the future plans are for the Gordon Plaza Apartments, which are currently abandoned. HANO is still considering options to address its properties at the ASL site.

No other information, such as a potential future land use changes in the vicinity of the site or other changes in site conditions or exposure pathways that might call into question the protectiveness of the selected remedy, have been identified as part of this five-year review.

## 7.4 Summary of the Technical Assessment

The technical assessment, based on the data review, site inspection, technical evaluation, and interviews, indicates the removal actions performed at this site appear to have been implemented as intended by the decision documents. The assumptions used at the time of remedy selection are still valid. There are no early indicators related to the remedy that would suggest potential remedy problems at the site. No major changes in contaminant toxicity or other contaminant characteristics were identified that affect the cleanup levels originally established for the site, or affect the protectiveness of the remedy. No new laws or regulations have been promulgated or enacted that would call into question the effectiveness of the remedy to protect human health and the environment. No other information such as a potential future land use change in the vicinity of the site or other changes in site conditions have been identified as part of this five-year review that might call into question the protectiveness of the selected remedy.

As described in the site inspection ([Section 6.6](#)), it was noted that no mowing of the vegetative cover on a regular basis is taking place at the OU1 property. Lack of mowing and other maintenance activities by private owners of land within the site could potentially result in damage to the soil cover and/or the subsurface geotextile mat. In addition, unauthorized dumping of debris and trash inside the OU1 property is an ongoing issue due to breaches by trespassers at several of the OU1 property fence gates. The OU1 property security fence also appears to be in disrepair at several locations along the perimeter as indicated in the site inspection ([Section 6.6](#)). Access to the OU1 property by trespassers could potentially result in damage to the soil cover and underlying geotextile barrier. Several residential properties at OU2 as well as the Shirley Jefferson Community Center had overgrown grass. In addition, several leaking fire hydrants and/or water mains were observed within OU2 along Press Street. No erosion of the soil cover was observed during the site inspection near the location of the fire hydrants, but the potential exists for erosion to occur if the leaks are not addressed. Post-removal maintenance instructions for the site, provided to the OU property owners, did not fully explain the procedures for the handling/disposal of soil excavated from beneath the geotextile barrier that cannot be used to backfill the excavation. A city ordinance has been adopted that requires a permit for excavation within the ASL site in order to ensure



that any excavation is performed in accordance with the protocols established by EPA.

The only significant change in exposure assumptions or standards set for the site has been the new standards set for arsenic levels in soil. The current EPA Region 6 Human Health Medium Specific Screening levels for arsenic and lead in soil for residential exposure are 22 mg/kg and 400 mg/kg, respectively. The State of Louisiana RECAP soil standards for arsenic and lead for surface soil and potential surface soil at non industrial sites are 12 mg/kg and 400 mg/kg, respectively. These standards may be considered if additional response actions are found to be required at the site. No new exposure pathways were identified as a result of this five-year review.

## 8.0 Institutional Controls

Institutional Controls (ICs) are generally defined as non-engineered instruments such as administrative and legal tools that do not involve construction or physically changing the site and that help minimize the potential for human exposure to contamination and/or protect the integrity of a remedy by limiting land and/or resource use (EPA, 2005). ICs can be used for many reasons including restriction of site use, modifying behavior, and providing information to people (EPA, 2000). ICs may include deed notices, easements, covenants, restrictions, or other conditions on deeds, and/or ground water and/or land use restriction documents (EPA, 2001). The following paragraphs describe the ICs implemented at the site, the potential effect of future land use plans on ICs, and any plans for changes to site contamination status.

### 8.1 Types of Institutional Controls in Place at the Site

In December, 2006, conveyance notifications were filed at the Orleans Parish Conveyance Office for the nine properties that elected not to participate in the removal action performed at OU2. The conveyance notices were filed to notify the public that soil on these properties may contain contaminant levels that are unacceptable for non-industrial use of the property as described in the LDEQ RECAP, Section 2.9.

Copies of these notices are provided in [Attachment 7](#).

Closeout Letters were provided to the ASL site property owners describing the operation and maintenance activities that should be performed by the property owner. However, if a property owner sells their property, they are not required to provide this information to new owners.

The undeveloped property (OU1) is currently zoned as commercial/light industrial, preventing land development of the property for residential use. The comment period for the Notice of Intent to Delete the site from the NPL concluded on October 25, 2004. The EPA and the City of New Orleans have agreed to terms on a Consent Decree to address maintenance issues at ASL site and implement additional

ICs. The Consent Decree has been signed by both EPA and the City of New Orleans, but it has not yet been lodged in the District Court. In order to implement additional ICs at the ASL site, the City of New Orleans will be required to implement the work described in the Consent Decree. Once the Consent Decree becomes official, the ICs can be established and the deletion process will continue (**EPA, 2007b**). The City of New Orleans has adopted Ordinance No. 22,893 M.C.S, which imposes the permitting requirement for excavations in the area of the ASL site as required by the Consent Decree. A copy of the city ordinance is presented in [Attachment 9](#).

## 8.2 Effect of Future Land Use Plans on Institutional Controls

No future land uses have been established or are anticipated for the site that would require an adjustment to the ICs currently put into place.

## 8.3 Plans for Changes to Site Contamination Status

No changes to the status of the contamination at the site are anticipated.

## 9.0 Issues

Based on the data review, site inspection, interviews, and technical assessment, it appears the remedy has been implemented as planned and is functioning as intended by the decision documents in the short-term. To ensure continued protectiveness, four issues are identified in the second five-year review for this site, as described in the following paragraphs. The issues are also summarized in [Table 3](#). These issues do not currently affect the protectiveness of the remedy, although they need to be addressed to ensure continued protectiveness.

1. **Cover maintenance at OU1.** During the site inspection, an area of OU1 was observed being used as a dump site for construction debris. The vegetation across the rest of OU1 is overgrown, limiting the ability to directly observe the condition of the soil cover. Also, the gates that provide access to OU1 were unlocked. Although access restrictions at OU1 are not a requirement of the remedy, damage to the soil cover could result from unrestricted vehicular traffic that traverses the property. Ruts made to the soil cover of OU1 by vehicular traffic could result in exposure of the geotextile fabric and underlying contaminated soils. As long as the 12-inch thick surface soil cover and geotextile barrier remain intact and undamaged, there is minimal risk of exposure to underlying impacted soils below the geotextile barrier at OU1.
2. **Cover maintenance at OU2 and OU3.** At the conclusion of each phase of the response actions conducted at OU2 and OU3, Closeout Letters were provided to property owners describing the operation and maintenance activities that were recommended to protect the soil cover. The post-

closure care maintenance activities of the soil cover described by this letter include “filling in holes above the geotextile barrier with clean fill and continued cultivation of grass, shrubbery, and trees and other landscape features to assure a healthy vegetative cover over the clean fill.” During the site inspection, overgrown grass was observed at several residential properties at OU2 and the Shirley Jefferson Community Center (OU3). In addition, several leaking fire hydrants and/or water mains were observed within OU2 along Press Street. Erosion of the soil cover was not observed during the site inspection where the leaks were observed, but the potential exists for erosion to occur if the leaks are not addressed. There does not currently appear to be a risk of exposure to underlying impacted soils below the geotextile barrier at OU2 and OU3 as long as the 24-inch thick surface soil cover and geotextile barrier remain intact and undamaged.

3. **Institutional Controls (ICs) providing notice of site conditions and providing Closeout Letters to future property owners.** At the conclusion of each phase of the response actions (Phase I - February 2, 2000, and Phase II - April 27, 2001), a Closeout Completion Package was provided to each owner of property in OU1, 2, and 3 who participated in the removal action. Closeout Letters describing the operation and maintenance activities that should be performed by the property owner were included in the Closeout Completion Package. However, if a property owner sells their property, they are not required to provide this information to new owners. Also, there are currently no ICs in place that provide notice to future property owners at the site regarding the site conditions and the information in the Closeout Letters.
4. **Institutional Controls for handling of soils from below the geotextile barrier.** In addition to the Closeout Letters provided to property owners, EPA prepared a set of instructions titled Technical Abstract for Utilities Operating Within the Agriculture Street Landfill Superfund Site for local utilities. The Closeout Letters and the Technical Abstract document provide instructions for excavating and handling soils from below the geotextile barrier, but there are currently no procedures in place for the handling and disposal of soil excavated from below the geotextile barrier in the event that the material cannot be returned to the excavated area below the barrier.

## 10.0 Recommendations and Follow-up Actions

As described in the previous section, four issues were identified during the second five-year review for this site. To address these issues, the following recommendations and follow-up actions have been defined. These recommendations and follow-up actions are also provided in [Table 3](#).

1. The EPA and the City of New Orleans have agreed to terms on a Consent Decree to address the maintenance issues at OU1. The Consent Decree has been signed by both EPA and the City of New Orleans, but it has not yet been lodged in the District Court. Once the Consent Decree is lodged with the District Court, the work stipulated in the Consent Decree should be implemented by the City of New Orleans to ensure the maintenance necessary to maintain the surface soil cover at OU1 is performed.
2. The Consent Decree signed by EPA and the City of New Orleans addresses the maintenance issues observed at OU2 and OU3. Once the Consent Decree is lodged with the District Court, the work stipulated in the Consent Decree should be implemented by the City of New Orleans to ensure the appropriate maintenance of the soil cover at OU1, OU2, and OU3 is performed as stipulated in the Consent Decree and Closeout Letter. Also, the leaking fire hydrants and/or water mains along Press Street need to be repaired to ensure that the soil cover is not eroded and the geotextile barrier and underlying soils is not exposed.
3. The Consent Decree signed by EPA and the City of New Orleans includes work to be performed by the City to ensure notice is provided to future property owners of existing site conditions and the information included in the Closeout Letters. The actions to be implemented by the City of New Orleans include providing an annual notice to property owners within the ASL site. The City of New Orleans will ensure that within 60 days of entry of the Decree and on an annual basis thereafter, the SWB includes in bills to customers owning or renting property at the site the protocol for Post-Removal Maintenance for Property Owners. Alternatively, within 60 days of entry of the Decree and on an annual basis thereafter, the City of New Orleans will mail the protocol to property owners and renters at the site. Once the Consent Decree has been lodged with the District Court, the City of New Orleans should implement these actions to ensure future property owners are provided notice of existing site conditions and maintenance activities as specified on the Closeout Completion Package.
4. The Consent Decree signed by EPA and the City of New Orleans requires that the City of New Orleans implement additional ICs that stipulate the requirements for handling and disposal of soil excavated from below the geotextile barrier at the ASL site. Once the Consent Decree has been lodged with the District Court, the appropriate ICs should be put in place by the City of New Orleans that stipulate the requirements for handling and disposal of soil that has been excavated from below the geotextile barrier.

## **11.0 Protectiveness Statement**

The time-critical and non-time critical removal actions performed at the ASL site are considered protective of human health and the environment because contaminated soil has been removed or contained and is protected from erosion, and a barrier has been constructed to prevent exposure to the remaining impacted soil. The soil barrier covering the site is in place and expected to remain in place over time, restricting exposure to the remaining subsurface contamination. The EPA and the City of New Orleans have recently agreed to and signed a Consent Decree that will address the issues and recommendations identified in this Second Five-Year Review Report. Because the completed response actions for the ASL site currently prevent exposure to remaining site contamination, the remedy is considered protective of human health and the environment in the short-term, and will continue to be protective if the recommendations and follow-up actions identified in the five-year review are addressed.

## **12.0 Next Review**

A third five-year review is recommended for this site to review the follow-up actions identified in this Second Five-Year Review Report. The third five-year review should be completed during or before June 2013.

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TABLE 1  
Chronology of Site Events  
*Agriculture Street Landfill Superfund Site*  
*Orleans Parish, New Orleans, Louisiana*

Date	Event
1909	Operation of the site as a landfill began.
1948	Dump/landfill was converted to use as a sanitary landfill.
1958	The landfill was closed.
1965	The landfill was reopened as an open burning and disposal area for debris created by Hurricane Betsy.
1977 to 1986	The northern portion (approximately 47 acres) of the site was re-developed to support housing (390 properties are on the site of the old landfill), small businesses and the Moton Elementary school.
1985	Moton Elementary School constructed.
1986	The United States Environmental Protection Agency (EPA) completed a site investigation. Under the 1982 Hazard Ranking System, the site did not qualify for placement on the National Priorities List (NPL).
1993	The Louisiana Office of Public Health and Agency for Toxic Substances and Disease Registry established a community assistance panel for citizens living near the Site.
September 1993	EPA (at the request of area community leaders) initiated an Expanded Site Investigation.
March 1994	EPA initiated a time-critical removal action consisting of installation of an 8-foot high fence around the undeveloped portion of the former landfill.
April 1994	EPA opened an outreach office at the site to involve the community at every level of the Superfund technical and administrative process.
April-June 1994	EPA conducted the Remedial/Removal Integrated Investigation (RRII) of the entire site.
August 1994	The site was proposed for inclusion on the NPL as part of NPL update No. 17.
September 1994	A Technical Assistance Grant (TAG) was awarded by EPA.
December 1994	EPA placed the site on the NPL.
February 1995	EPA conducted a second time-critical removal action to address elevated lead found on the Press Park Community Center property and performed air and ground water sampling.
March 1995	EPA completed the RRII.
March 1996	EPA officials met with site residents to discuss site issues, alternatives, and community concerns.
April 1996	The community and TAG advisor were provided with copies of the draft proposed Plan of Action and draft Engineer Evaluation/Cost Analysis (EE/CA) Report for comments and input.
1996	EPA completed a third time-critical removal action to repair the fence around the undeveloped property (Operable Unit [OU1]).
August 1996	The EE/CA report completed.

**TABLE 1**  
Chronology of Site Events  
*Agriculture Street Landfill Superfund Site*  
*Orleans Parish, New Orleans, Louisiana*

Date	Event
February 1997	The Proposed Plan of Action was formally released.
September 1997	EPA entered into an interagency agreement with the United States Army Corps of Engineers (USACE) to conduct the soil removal action.
September 1997	Action Memorandum for a non-time-critical removal action for OU 1, OU2, and OU3 is completed.
September 1997	Record of Decision (ROD) for OU 4 and OU 5 signed.
1998 - 2000	Non-Time Critical Removal Action for OU1, OU2, and OU3 performed.
June 2000	Final Removal Close Out Report submitted.
June 2000	OU4 and OU5 removed from NPL.
August 2000 - April 2001	Phase II Non-Time Critical Removal action for OU 1, OU 2, and OU 3 performed.
April 27, 2001	Final Site Inspection performed.
October 12, 2001	Proposed Plan of Action for OU 1, OU 2, and OU 3 (No Further Action) completed.
April 2002	ROD for OU1, OU2 and OU 3 signed.
April 2002	Final Close Out Report was submitted.
June 2003	First Five-Year Review completed.
August 29, 2005	Hurricane Katrina makes landfall in southeast Louisiana.
September 24, 2005	Hurricane Rita makes landfall near the Louisiana/Texas border.
October 1-2, 2005	EPA collected 74 soil samples at 23 locations at the site.
February 3, 2006	The EPA published a Hurricane Katrina Evaluation Report documenting an evaluation of the effects of Hurricane Katrina at the Agriculture Street Landfill Superfund Site.
August 29, 2006	The U.S. Department of Health and Human Services prepared a Health Consultation in response to hurricane sampling assessment for the Agriculture Street Landfill.

**TABLE 2**  
**Actions Taken Since First Five-Year Review**  
*Agriculture Street Landfill Superfund Site*  
*Orleans Parish, New Orleans, Louisiana*

<b>Issue from First Five-Year Review</b>	<b>First Five-Year Review Recommendations/ Follow-up Actions</b>	<b>Party Responsible</b>	<b>Action Taken</b>	<b>Date of Action</b>
Part of Operable Unit (OU) 1 is currently used to store cars, trucks, trailers and Mardi Gras floats (observed during the five-year review site inspection). Ruts, likely made by vehicular traffic, were noted in the surface soil of OU1 in the apparent storage area. The deepest ruts appeared to be about six inches deep, and did not appear to intersect the geotextile barrier.	Measures should be adopted to remind the property owner of OU1, where rutting was observed, to maintain the cover. Instructions and specifications for maintenance should be included in the reminder.	OU1 Property Owner	During the second five year review site inspection, it was noticed that most vehicles stored at OU1 had been removed, with the exception of a semi-trailer that is still on site. Several auto parts were scattered in the vicinity of the area where vehicles were being stored. Due to the presence of the dense vegetation, ruts could not be observed in the soil cover. The EPA and the City of New Orleans have agreed to terms on a Consent Decree to address maintenance issues at the OU1 property.	Unknown
Procedures for handling/disposal of soil excavated below the barrier in the event that this material cannot be returned to the excavated area beneath the barrier, such as during tree planting, were not explained fully in the Operations and Maintenance instructions. In addition, procedures do not appear to be in place for communicating the maintenance procedures to new property owners.	Additional guidance should be provided to OU property owners for handling/disposal of soils excavated below the barrier that cannot be returned to the excavated area beneath the barrier to limit potential exposure to these materials. Finally, procedures should be established for forwarding maintenance instructions to new property owners.	EPA	EPA and the City of New Orleans have agreed to terms on a Consent Decree to address maintenance issues at the Agricultural Street Landfill site. The Consent Decree has been signed by both EPA and the City of New Orleans, but it has not yet been lodged in the District Court. Once the Consent Decree is lodged with the District Court, the City of New Orleans will take responsibility of implementing the work stipulated in the Consent Decree.	In progress

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**Table 3**  
**Recommendations and Follow-up Actions**  
*Agriculture Street Landfill Superfund Site*  
*Orleans Parish, New Orleans, Louisiana*

Issues	Recommendations/ Follow-up Actions	Party Responsible	Oversight Agency	Date Due	Follow-up Action Affects Protectiveness (Y/N)
<b>Maintenance Issues</b>					
<b>1. Cover maintenance at OU1.</b> During the site inspection, an area of OU1 was observed being used as a dumpsite for construction debris. The vegetation across the rest of OU1 is overgrown, limiting the ability to directly observe the condition of the soil cover. In addition, the gates that provide access to OU1 were unlocked. Although access restrictions at OU1 are not a requirement of the remedy, damage to the soil cover could result from unrestricted vehicular traffic that traverses the property. Ruts made to the soil cover of OU1 by vehicular traffic could result in exposure of the geotextile fabric and underlying contaminated soils. As long as the 12-inch thick surface soil cover and geotextile barrier remain intact and undamaged, there is minimal risk of exposure to underlying impacted soils below the geotextile barrier at OU1.	The EPA and the City of New Orleans have agreed to terms on a Consent Decree to address the maintenance issues at OU1. The Consent Decree has been signed by both the EPA and the City of New Orleans, but it has not yet been lodged in the District Court. Once the Consent Decree is lodged with the District Court, the work stipulated in the Consent Decree should be implemented by the City of New Orleans to ensure the maintenance necessary to maintain the surface soil cover at OU1 is performed.	City of New Orleans	EPA	2008	N <sup>1</sup>
<b>2. Cover maintenance at OU2 and OU3.</b> At the conclusion of each phase of the response actions conducted at OU2 and OU3, Closeout Letters were provided to property owners describing the operation and maintenance activities that were recommended to protect the soil cover. The post-closure care maintenance activities of the soil cover described by this letter include “filling in holes above the geotextile barrier with clean fill and continued cultivation of grass, shrubbery, and trees and other landscape features to assure a healthy vegetative cover over the clean fill.” During	The Consent Decree signed by the EPA and City of New Orleans addresses the maintenance issues observed at OU2 and OU3. Once the Consent Decree is lodged with the District Court, the work stipulated in the Consent Decree should be implemented by the City of New Orleans to ensure the appropriate maintenance of the soil cover at OU1, OU2, and OU3 is performed as stipulated in the Consent Decree and Closeout Letter. In addition, the leaking fire hydrants and/or water	City of New Orleans	EPA	2008	N <sup>1</sup>

**Table 3**  
**Recommendations and Follow-up Actions**  
*Agriculture Street Landfill Superfund Site*  
*Orleans Parish, New Orleans, Louisiana*

Issues	Recommendations/ Follow-up Actions	Party Responsible	Oversight Agency	Date Due	Follow-up Action Affects Protectiveness (Y/N)
the site inspection, overgrown grass was observed at several residential properties at OU2 and the Shirley Jefferson Community Center (OU3). In addition, several leaking fire hydrants and/or water mains were observed within OU2 along Press Street. Erosion of the soil cover was not observed during the site inspection where the leaks were observed, but the potential exists for erosion to occur if the leaks are not addressed. There does not currently appear to be a risk of exposure to underlying impacted soils below the geotextile barrier at OU2 and OU3 as long as the 24-inch thick surface soil cover and geotextile barrier remain intact and undamaged.	mains along Press Street need to be repaired to ensure that the soil cover is not eroded and the geotextile barrier and underlying soils is not exposed.				
<b>3. Institutional Controls (ICs) providing notice of site conditions and providing Closeout Letters to future property owners.</b> At the conclusion of each phase of the response actions (Phase I - February 2, 2000, and Phase II - April 27, 2001), a Closeout Completion Package was provided to each owner of property in OU1, OU2, and OU3 who participated in the removal action. Closeout Letters describing the operation and maintenance activities that should be performed by the property owner were included in the Closeout Completion Package. However, if a property owner sells their property, they are not required to provide this information to new owners. In addition, there are currently no ICs in place that provide notice to future property owners at the site regarding the site conditions and the information in the Closeout Letters.	The Consent Decree signed by the EPA and City of New Orleans includes work to be performed by the City to ensure notice is provided to future property owners of existing site conditions and the information included in the Closeout Letters. The actions to be implemented by the City of New Orleans include providing an annual notice to property owners within the ASL site. The City of New Orleans will ensure that within 60 days of entry of the Decree and on an annual basis thereafter, the Sewerage and Water Board includes in bills to customers owning or renting property at the site the protocol for Post- Removal Maintenance for Property Owners. Alternatively, within 60 days of entry of the Decree and on an annual	City of New Orleans	EPA	2008	N <sup>1</sup>

**Table 3**  
**Recommendations and Follow-up Actions**  
*Agriculture Street Landfill Superfund Site*  
*Orleans Parish, New Orleans, Louisiana*

Issues	Recommendations/ Follow-up Actions	Party Responsible	Oversight Agency	Date Due	Follow-up Action Affects Protectiveness (Y/N)
	basis thereafter, the City of New Orleans will mail the protocol to property owners and renters at the site. Once the Consent Decree has been lodged with the District Court, the City of New Orleans should implement these actions to ensure future property owners are provided notice of existing site conditions and maintenance activities as specified on the Closeout Completion Package.				
<b>4. Institutional Controls for excavation and handling of soils from below the geotextile barrier.</b> In addition to the Closeout Letters provided to property owners, EPA prepared a set of instructions titled Technical Abstract for Utilities Operating Within the Agriculture Street Landfill Superfund Site for local utilities. The Closeout Letters and the Technical Abstract document provide instructions for excavating and handling soils from below the geotextile barrier, but there are currently no procedures in place for the handling and disposal of soil excavated from below the geotextile barrier in the event that the material cannot be returned to the excavated area below the barrier.	The Consent Decree signed by the EPA and City of New Orleans requires that the City of New Orleans implement additional ICs that stipulate the requirements for handling and disposal of soil excavated from below the geotextile barrier at the ASL site. Once the Consent Decree has been lodged with the District Court, the appropriate ICs should be put in place by the City of New Orleans that stipulate the requirements for handling and disposal of soil that has been excavated from below the geotextile barrier.	EPA/City of New Orleans	EPA	2008	N <sup>1</sup>
<sup>1</sup> Although performance of these activities do not currently affect the protectiveness of the remedy in and/of themselves, they are required to provide long-term protectiveness.					

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- OU1 Undeveloped
- OU2 Residential Properties
- OU3 Shirley Jefferson Community Center
- OU4 Moton Elementary School

Note: Reproduced from CH2M HILL, 2005



## FIGURE 1

Agriculture St. Landfill  
Site Map  
April, 2008  
New Orleans, Louisiana

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**Attachments**

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## **Attachment 1**

### **Documents Reviewed**

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## Attachment 1 Documents Reviewed

- City of New Orleans, Law Department (CNOLD), 2008. *Agriculture Street Landfill Superfund Site, United States v. City of New Orleans, et al. Consent Decree*. January, 24 2008.
- U. S. Department Of Health And Human Services (DHHS), 2006. *Health Consultation, Hurricane Response Sampling Assessment for the Agriculture Street Landfill*. August, 2006
- U. S. Environmental Protection Agency (EPA), 1997c. *Record of Decision, Agriculture Street Landfill Superfund Site Operable Unit 4 and Operable Unit 5*. September 2, 1997.
- U. S. Environmental Protection Agency (EPA), 2000. *Final Removal Close Out Report Agriculture Street Landfill Superfund Site*. June 2000.
- U. S. Environmental Protection Agency (EPA), 2001. *Comprehensive Five-Year Review Guidance*. OSWER No. 9355.7-03B-P. June 2001.
- U. S. Environmental Protection Agency (EPA), 2002a. *Record of Decision, Agriculture Street Landfill Superfund Site Operable Unit 1, Operable Unit 2, Operable Unit 3*. April 2002.
- U. S. Environmental Protection Agency (EPA), 2002b. *Final Close Out Report Agriculture Street Landfill Superfund Site, New Orleans, Louisiana*. April 2002.
- U. S. Environmental Protection Agency (EPA), 2003. *First Five-Year Review Report for Agriculture Street Landfill Superfund Site New Orleans, Orleans Parish, Louisiana*. June, 2003.
- U. S. Environmental Protection Agency (EPA), 2005. *Institutional Controls: A Citizens Guide to Understanding Institutional Controls at Superfund, Brownfields, Federal Facilities, Underground Storage Tank, and Resource Conservation and Recovery Act Cleanups*. EPA-540-R-04-003. February 2005.
- U. S. Environmental Protection Agency (EPA), 2006. *Hurricane Katrina Evaluation Report, Agriculture Street Landfill Superfund Site New Orleans, Orleans Parish, Louisiana*. February, 2006.
- U. S. Environmental Protection Agency (EPA), 2007a. *Responses to 2005 Hurricanes, Summary of Testing at Superfund National Priority List Sites*. [Online]. Available: <<http://www.epa.gov/katrina/superfund-summary.html#Agriculture>>. 2007.
- U. S. Environmental Protection Agency (EPA), 2007b. *Agriculture Street Landfill Superfund Site Selection of Remedy Fact Sheet*. November, 2007.

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## **Attachment 2**

### **Interview Record Forms**

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<b>Five-Year Review Interview Record</b> Agriculture Street Landfill Superfund Site New Orleans, Orleans Parish, Louisiana		<b>Interviewee: Samuel Robertson</b> Affiliation: Local Resident Telephone: Email address:	
<b>Site Name</b>	<b>EPA ID Number</b>	<b>Date of Interview</b>	<b>Interview Method</b>
Agriculture Street Landfill Superfund Site	EPA ID# LAD981056997	Response Received on 11/27/07	Via US Mail
<b>Interview Contacts</b>			
<b>Name</b>	<b>Organization</b>	<b>Phone</b>	<b>Email</b>
Ursula Lennox	EPA Region 6	214-665-6743	<a href="mailto:lennox.ursula@epa.gov">lennox.ursula@epa.gov</a>
Janetta Coats	EPA Region 6	214-665-7308	<a href="mailto:coats.janetta@epa.gov">coats.janetta@epa.gov</a>
Darren Davis	CH2M HILL, EPA contractor	972-663-2253	<a href="mailto:ddavis9@ch2m.com">ddavis9@ch2m.com</a>
Victor Martinez	CH2M HILL, EPA contractor	972-663-2207	<a href="mailto:vmartin1@ch2m.com">vmartin1@ch2m.com</a>
<b>Purpose of the Five-Year Review</b>			
<p>The purpose of the five-year review is to evaluate the implementation and performance of the remedy, and to confirm that human health and the environment continue to be protected by the actions performed. This interview is being conducted as a part of the second five-year review for the Agriculture Street Landfill site. The period covered by this five-year review is from completion of the first five-year review (June 30, 2003) to the present.</p>			
<b>Interview Questions</b>			
<p>1. What is your overall impression of the activities performed at the site since the first five-year review (June 30, 2003)?</p> <p>Response: I was not aware of any activities being performed since the clean-up. The undeveloped site or fenced-off area is overgrown and has now turned into a dump site. We have making calls to our district representative and to the City to get that area cleaned up.</p>			
<p>2. From your perspective, what effects have the remedial actions at the site had on the surrounding community, prior to and after Hurricane Katrina? Are you aware of any ongoing community concerns regarding the remedial actions EPA implemented at the site?</p> <p>Response: No, I'm not aware of any remedial action going on at the site. Our major concern now is to get something done with all the abandoned town houses in Press Park. Plus, we would like to see the fenced-off area between Almonaster and St. Ferdinand better maintained.</p>			

3. Are you aware of any incidents at the site prior to and after Hurricane Katrina, such as dumping, vandalism, trespassing, or any activities requiring emergency response from local authorities?

Response: Yes. All of the above. There are a few of us that have been calling any and everyone that we think can help with the situation. We did get one side of the fenced-off area chain locked.

4. Prior to and after Hurricane Katrina, have you felt well-informed about the site's status?

Response: No! All I know is that we are no longer on the Superfund list. That there is a lawsuit pending, and we don't know the status of that either.

5. Do you have any comments, suggestions, or recommendations regarding the site or its administration?

Response: Yes, let the residents know the true status of the site. Whether it is safe or unsafe, especially post-Katrina.

<b>Five-Year Review Interview Record</b> Agriculture Street Landfill Superfund Site New Orleans, Orleans Parish, Louisiana		<b>Interviewee: Wynecta Fisher</b> Affiliation: Director, Environmental Affairs Telephone: (504)658-4070 Email address: <a href="mailto:wmfisher@cityofno.com">wmfisher@cityofno.com</a>	
<b>Site Name</b>	<b>EPA ID Number</b>	<b>Date of Interview</b>	<b>Interview Method</b>
Agriculture Street Landfill Superfund Site	EPA ID# LAD981056997	Response Received on 12/21/07	Via Email
<b>Interview Contacts</b>			
<b>Name</b>	<b>Organization</b>	<b>Phone</b>	<b>Email</b>
Ursula Lennox	EPA Region 6	214-665-6743	<a href="mailto:lennox.ursula@epa.gov">lennox.ursula@epa.gov</a>
Janetta Coats	EPA Region 6	214-665-7308	<a href="mailto:coats.janetta@epa.gov">coats.janetta@epa.gov</a>
Darren Davis	CH2M HILL, EPA contractor	972-663-2253	<a href="mailto:ddavis9@ch2m.com">ddavis9@ch2m.com</a>
Victor Martinez	CH2M HILL, EPA contractor	972-663-2207	<a href="mailto:vmartin1@ch2m.com">vmartin1@ch2m.com</a>
<b>Purpose of the Five-Year Review</b>			
The purpose of the five-year review is to evaluate the implementation and performance of the remedy, and to confirm that human health and the environment continue to be protected by the actions performed. This interview is being conducted as a part of the second five-year review for the Agriculture Street Landfill site. The period covered by this five-year review is from completion of the first five-year review (June 30, 2003) to the present.			
<b>Interview Questions</b>			
1. What is your overall impression of the activities performed at the site since the first five-year review (June 30, 2003)?  Response: The activities that I am familiar with were performed after Hurricane Katrina. Testing was done at the site to ensure that contaminants had not migrated from the site. The test results that came back unfavorable were repeated to ensure that everything was within the state's RECAP standards.			

2. From your perspective, what effects have the remedial actions at the site had on the surrounding community, prior to and after Hurricane Katrina? Are you aware of any ongoing community concerns regarding the remedial actions EPA implemented at the site?

Response: My contact with the surrounding community happened after Hurricane Katrina. I am not aware of any effects the remedial actions has had on the surrounding community. However, I am aware of ongoing concerns. I spoke to concerned citizens on the phone regarding the NRDC's report and how it conflicted with EPA's report. The concern was that the cap was disturbed and NRDC's report showed that the cap was disturbed. EPA's report showed few areas of concern but the numbers varied widely between the two reports.

3. Have there been routine communications or activities (site visits, inspections, reporting activities, sampling, etc.) conducted by your office regarding the site? Please describe purpose and results.

Response: Community Concerns from non-profits regarding testing results: The Office of Environmental Affairs participated in a site visit with EPA Region 6 Administrator and Mary Orr of LEAN. We did not go behind the fenced area but we went to the site to address the concerns that LEAN voiced. The results of that visit concluded that substance of concern was not "toxins" but something else.

In a separate incident during a conference call, I spoke of the concerns that citizens had regarding the discrepancies in the test results between NRDC and the governmental agencies. I asked NRDC to meet federal /state authorities at a location in question and sample the same area at the same time. I made the request on behalf of the citizens who experienced anxiety due to the conflicting information between the reports. Neither side would agree to meet to discuss the issue.

4. Prior to and after Hurricane Katrina were there any complaints, violations, or other incidents related to the site that required a response by your office? If so, please summarize the events and results.

Response: Post Katrina, a resident contacted me regarding some concerns and I spoke with him in my office. He told me that he had been in contact with your office but did not receive an appropriate response. (He was unhappy about the remedy that was proposed by EPA regarding hand washing.) He thought that was an unjust way to have to live and something else should be done. He did not offer suggestions as to "what should be done" but he said something should be done.

5. Are you aware of any incidents at the site prior to and after Hurricane Katrina, such as dumping, vandalism, trespassing, or any activities requiring emergency response from local authorities?

Response: Post Katrina there has been dumping and trespassing. The challenge is catching the violators. The gates and locks have been cut and items are being dumped on the site. To date, my office has not witnessed any dumping or trespassing but I know it occurs for debris is located on the site.



6. Prior to and after Hurricane Katrina, have you felt well-informed about the site's status?

Response: Site visits were conducted by EPA & DEQ and no one from the city was informed of the visit nor invited to attend.

7. What type(s) of institutional control measures does the city plan or have in place to inform new or existing residents, owners or parties excavating in the area of the measures required to maintain the integrity of the permeable cap?

Response: The institutional control measures include: maintaining the soil cap through direct maintenance (mowing the grass, preventing any shrubbery or trees from growing on the vacant site); Adopted an ordinance requiring an excavation permit prior to digging on the site ; disseminate excavation procedures to users of the site through the permit process, mailing notices in property owners Sewerage and Water Board bills; allow EPA access to the site; provide future owners with notice of the environmental condition of the site by recording a copy of the excavation permit ordinance in their chain of title).

8. Should any portion of the site be developed or redeveloped (i.e. the undeveloped property – Operable Unit 1), does the city have measures in place that would notify EPA of the proposed development?

Response: The city will notify EPA in writing of any development or redevelopment of any portion of the site.

9. Do you have any comments, suggestions, or recommendations regarding the site or its administration?

Response: My comments are as follows:

- Prior to any site visits by EPA, the Office of Environmental Affairs should be informed in writing of the nature of the visit and what activities will take place during the visit.
- A repository should be re-established in the community.

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<b>Five-Year Review Interview Record</b> Agriculture Street Landfill Superfund Site New Orleans, Orleans Parish, Louisiana		<b>Interviewee: Rich Johnson</b> Affiliation: LDEQ Telephone: 225-219-3200 Email address: <a href="mailto:rich.johnson@la.gov">rich.johnson@la.gov</a>	
<b>Site Name</b>	<b>EPA ID Number</b>	<b>Date of Interview</b>	<b>Interview Method</b>
Agriculture Street Landfill Superfund Site	EPA ID# LAD981056997	Response Received on 01/02/08	Via Email
<b>Interview Contacts</b>			
<b>Name</b>	<b>Organization</b>	<b>Phone</b>	<b>Email</b>
Ursula Lennox	EPA Region 6	214-665-6743	<a href="mailto:lennox.ursula@epa.gov">lennox.ursula@epa.gov</a>
Janetta Coats	EPA Region 6	214-665-7308	<a href="mailto:coats.janetta@epa.gov">coats.janetta@epa.gov</a>
Darren Davis	CH2M HILL, EPA contractor	972-663-2253	<a href="mailto:ddavis9@ch2m.com">ddavis9@ch2m.com</a>
Victor Martinez	CH2M HILL, EPA contractor	972-663-2207	<a href="mailto:vmartin1@ch2m.com">vmartin1@ch2m.com</a>
<b>Purpose of the Five-Year Review</b>			
<p>The purpose of the five-year review is to evaluate the implementation and performance of the remedy, and to confirm that human health and the environment continue to be protected by the actions performed. This interview is being conducted as a part of the second five-year review for the Agriculture Street Landfill site. The period covered by this five-year review is from completion of the first five-year review (June 30, 2003) to the present.</p>			
<b>Interview Questions</b>			
<p>1. What is your overall impression of the activities performed at the site since the first five-year review (June 30, 2003)?</p> <p>Response: None in particular there were no activities performed by the EPA I was aware of. The only work done was at the request of the EPA to have LDEQ file 9 conveyance notices on the properties that did not cooperate in the site remediation on their individual properties. This was performed with great difficulty by LDEQ considering the condition of the Clerk of Courts disarray after the Katrina storm.</p>			

2. From your perspective, what effects have the remedial actions at the site had on the surrounding community, prior to and after Hurricane Katrina? Are you aware of any ongoing community concerns regarding the remedial actions EPA implemented at the site?

Response: There have been no effects following the storm except that some illegal construction debris and rubble was dumped on the site, through a broken gate, largely in the unoccupied area of the site.

3. Have there been routine communications or activities (site visits, inspections, reporting activities, sampling, etc.) conducted by your office regarding the site? Please describe purpose and results.

Response: Several inspections were performed and several gates were re-locked to prevent any further C&D dumping.

4. Prior to and after Hurricane Katrina were there any complaints, violations, or other incidents related to the site that required a response by your office? If so, please summarize the events and results.

Response: See above.

5. Are you aware of any incidents at the site prior to and after Hurricane Katrina, such as dumping, vandalism, trespassing, or any activity requiring emergency response from local authorities?

Response: Yes, See above.

6. Have there been any changes in state environmental standards since the five-year review was signed in June 2003 which may call into question the protectiveness or effectiveness of the removal action?

Response: No.

7. Has the State implemented any institutional controls measures on the nine residential properties that elected not to participate in EPA's response action? If so, what are the controls (i.e. deed conveyance, notice, etc.), and when were they implemented?

Response: Approximately 6 months ago Institutional Controls or Conveyance Notices were placed on the respective properties.

8. How often does the State perform site inspections to confirm that the integrity of the permeable cap is maintained?

Response: The state is required to inspect the site at least once a year but because of irregularities caused by the storm the state has been on the site 5 or 6 times.

9. Prior to and after Hurricane Katrina, have you felt well-informed about the site's status?

Response: No.

10. Do you have any comments, suggestions, or recommendations regarding the site or its administration?

Response: The EPA needs to contact the city remind them that they are responsible and required to enforce unauthorized dumping laws in the area. The city must also maintain the integrity of the fencing and ensure regularly that all gates are in working condition and locked securely. Additionally EPA should inform the city that clearing and mowing of the fenced portion is required as part of the remedy.

<b>Five-Year Review Interview Record</b> Agriculture Street Landfill Superfund Site New Orleans, Orleans Parish, Louisiana		Interviewee: <b>Dot Wilson</b> Affiliation: Local Resident Telephone: (504)872-9926 Email address: <a href="mailto:dwilson@cityofno.com">dwilson@cityofno.com</a>	
<b>Site Name</b>	<b>EPA ID Number</b>	<b>Date of Interview</b>	<b>Interview Method</b>
Agriculture Street Landfill Superfund Site	EPA ID# LAD981056997		
<b>Interview Contacts</b>			
<b>Name</b>	<b>Organization</b>	<b>Phone</b>	<b>Email</b>
Ursula Lennox	EPA Region 6	214-665-6743	<a href="mailto:lennox.ursula@epa.gov">lennox.ursula@epa.gov</a>
Janetta Coats	EPA Region 6	214-665-7308	<a href="mailto:coats.janetta@epa.gov">coats.janetta@epa.gov</a>
Darren Davis	CH2M HILL, EPA contractor	972-663-2253	<a href="mailto:ddavis9@ch2m.com">ddavis9@ch2m.com</a>
Victor Martinez	CH2M HILL, EPA contractor	972-663-2207	<a href="mailto:vmartin1@ch2m.com">vmartin1@ch2m.com</a>
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<b>Interview Questions</b>			
1. What is your overall impression of the activities performed at the site since the first five-year review (June 30, 2003)?  Response: Everything seems to be fine. We never got any complaints from the residents.			

2. From your perspective, what effects have the remedial actions at the site had on the surrounding community, prior to and after Hurricane Katrina? Are you aware of any ongoing community concerns regarding the remedial actions EPA implemented at the site?

Response: Prior to Katrina, no negative effect at all that I know of. After the storm, the waters that washed through this area went to every area in the city that was flooded, therefore moving any toxicants throughout the flooding areas of the city. Those who are trying to grab a dollar at the expense of the community, filed and won a lawsuit, but HUD is appealing. They did this in the absence of the majority of people displaced. However, none of the parents who had kids attending Robert Russa Moton prior to the storm or teachers were a part of the suit. EPA need to reexamine the area, remediate if necessary, and give the Agriculture Street Landfill a clean bill of health.

3. Are you aware of any incidents at the site prior to and after Hurricane Katrina, such as dumping, vandalism, trespassing, or any activities requiring emergency response from local authorities?

Response: Of course, with less people, dumping will happen, however, illegal dumping is taking place throughout the city, but is being reported to the proper authority to rectify. Also, because of the storm, rodents seem to be everywhere, but reported. The fenced in part prior to the storm was allowing 18 wheelers to use the property for parking which caused the shaking of the foundations of the homes around that area.

4. Prior to and after Hurricane Katrina, have you felt well-informed about the site's status?

Response: After the remediation, we did not hear from EPA until it was time for the 5-year review of the site.

5. Do you have any comments, suggestions, or recommendations regarding the site or its administration?

Response: We are continuing to ask that EPA help us acquire the fenced in property to develop as a C2 economic development. This land has been abandoned and blighted and an eyesore for over 20 years and we need your help to acquire and develop.



<b>Five-Year Review Interview Record</b> Agriculture Street Landfill Superfund Site New Orleans, Orleans Parish, Louisiana		<b>Interviewee: Housing Authority of New Orleans</b> Affiliation: Housing Authority of New Orleans Telephone: 504-670-3390 – Legal Department – Laetitia Black, Staff Attorney – 504-483-3224, John Etter, Outside Counsel Email address: <a href="mailto:lblack@hano.org">lblack@hano.org</a>	
<b>Site Name</b>	<b>EPA ID Number</b>	<b>Date of Interview</b>	<b>Interview Method</b>
Agriculture Street Landfill Superfund Site	EPA ID# LAD981056997	1/24/2008	Written Response
<b>Interview Contacts</b>			
<b>Name</b>	<b>Organization</b>	<b>Phone</b>	<b>Email</b>
Ursula Lennox	EPA Region 6	214-665-6743	<a href="mailto:lennox.ursula@epa.gov">lennox.ursula@epa.gov</a>
Janetta Coats	EPA Region 6	214-665-7308	<a href="mailto:coats.janetta@epa.gov">coats.janetta@epa.gov</a>
Darren Davis	CH2M HILL, EPA contractor	972-663-2253	<a href="mailto:ddavis9@ch2m.com">ddavis9@ch2m.com</a>
Victor Martinez	CH2M HILL, EPA contractor	972-663-2207	<a href="mailto:vmartin1@ch2m.com">vmartin1@ch2m.com</a>
<b>Purpose of the Five-Year Review</b>			
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<b>Interview Questions</b>			
1. What is your overall impression of the activities performed at the site since the first five-year review (June 30, 2003)?  Response: Most of the site including the Housing Authority of New Orleans' ("HANO") Press Park properties suffered significant flood and wind damage due to Hurricanes Katrina and Rita. HANO is aware of EPA's testing and findings at the site performed in late-2005.			

2. From your perspective, what effects have the remedial actions at the site had on the surrounding community, prior to and after Hurricane Katrina? Are you aware of any ongoing community concerns regarding the remedial actions EPA implemented at the site?

Response: In on-going state court litigation, community residents expressed concerns about EPA's remedial actions. Further, media reports have noted on-going community concerns about the site after Hurricane Katrina.

3. Have there been routine communications or activities (site visits, inspections, reporting activities, sampling, etc.) conducted by your office regarding the site? Please describe purpose and results.

Response: HANO personnel are regularly at the site, in the course of managing the Press Park development. HANO has not performed environmental testing at the site.

4. Prior to and after Hurricane Katrina were there any complaints, violations, or other incidents related to the site that required a response by your office? If so, please summarize the events and results.

Response: After Hurricane Katrina, HANO secured damaged residences at the site, including boarding over broken windows and erecting fencing around severely damaged units near Higgins Boulevard.

5. Are you aware of any incidents at the site prior to and after Hurricane Katrina, such as dumping, vandalism, trespassing, or any activity requiring emergency response from local authorities?

Response: HANO staff recently noticed trash and debris that had been dumped at HANO's Press Park properties. HANO staff and a contractor are presently removing that trash and debris.

6. Prior to and after Hurricane Katrina, have you felt well-informed about the site's status?

Response: EPA has communicated with HANO regarding EPA's post-Katrina testing at the site.

7. What are the envisioned future plans for the HANO properties located on-site?

Response: HANO is considering demolishing HANO's properties at the site. That decision will be subject to review, approval and funding by HUD, FEMA, EPA, and other government authorities.

8. Will the problem area (Post Hurricane Katrina) be remediated, and are provisions in place to consult EPA prior to and during the remediation? If not, when will provisions be established?

Response: HANO has contacted EPA about future remediation and plans to consult with EPA as HANO's plans for the site are developed.

9. What types of institutional controls are in place or will be established to restrict access to the problem area (Post Hurricane Katrina) to minimize exposure?

Response: At this time, HANO's most-damaged properties are surrounded by a fence.

10. Will the HANO property be redeveloped, and if so when, and within what timeframe?

Response: At this time, HANO is still considering options for redevelopment of HANO's property.

11. Do you have any comments, suggestions, or recommendations regarding the site or its administration?

Response: HANO anticipates further discussions and consultation with EPA and other federal agencies regarding the site.

## **Attachment 3**

### **Site Inspection Checklist**

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# Agriculture Street Landfill, New Orleans, Orleans Parish, Louisiana Five-Year Review Site Inspection Checklist

Please note that "O&M" is referred to throughout this checklist. At sites where Long-Term Response Actions are in progress, O&M activities may be referred to as "system operations" since these sites are not considered to be in the O&M phase while being remediated under the Superfund program. N/A means -"not applicable".

I. SITE INFORMATION	
Site Name: Agriculture Street Landfill Superfund Site	EPA ID: LAD981056997
City/State: New Orleans, Orleans Parish, Louisiana	Date of Inspection: 01/13 /2007
Agency Completing 5 Year Review: EPA	Weather/temperature: Sunny, mid 70s
<b>Remedy Includes:</b> (Check all that apply) <input checked="" type="checkbox"/> Landfill cover/containment <input type="checkbox"/> Access controls <input type="checkbox"/> Institutional controls <input type="checkbox"/> Groundwater pump and treatment <input type="checkbox"/> Surface water collection and treatment <input type="checkbox"/> Other:	
<b>Attachments:</b> <input checked="" type="checkbox"/> Inspection team roster attached <input checked="" type="checkbox"/> Site map attached	
II. INTERVIEWS (Check all that apply)	
<b>1. O&amp;M site manager:</b> Name: Title: Date: Interviewed: <input type="checkbox"/> at site <input type="checkbox"/> at office <input type="checkbox"/> by phone                      Phone Number: <u>Problems, suggestions:</u> <input type="checkbox"/> Additional report attached (if additional space required).	
<b>2. O&amp;M staff:</b> Name: Title: Date: Interviewed: <input type="checkbox"/> at site <input type="checkbox"/> at office <input type="checkbox"/> by phone                      Phone Number: <u>Problems, suggestions:</u> <input type="checkbox"/> Additional report attached (if additional space required).	

3. **Local regulatory authorities and response agencies** (i.e., State and Tribal offices, emergency response office, police department, office of public health or environmental health, zoning office, recorder of deeds, or other city and county offices, etc.) Fill in all that apply.

**Agency:** Louisiana Department of Environmental Quality

**Contact:**

Name: Rich Johnson

Title: Environmental Scientist

Date:

Phone Number: 225-219-3200

Problems, suggestions: ☐ Additional report attached (if additional space required).

**Agency:** Louisiana Department of Environmental Quality

**Contact:**

Name: Nora Lane

Title: Environmental Scientist

Date:

Phone Number: 225-219-3205

Problems, suggestions: ☐ Additional report attached (if additional space required).

**Agency:**

**Contact:**

Name: Nora Lane

Title: Environmental Scientist

Date:

Phone Number: 225-219-3205

Problems, suggestions: ☐ Additional report attached (if additional space required).

**Agency:**

**Contact:**

Name:

Title:

Date:

Phone Number:

Problems, suggestions: ☐ Additional report attached (if additional space required).

4. **Other interviews (optional)** ☐ N/A ☐ Additional report attached (if additional space required).

### III. ONSITE DOCUMENTS & RECORDS VERIFIED (Check all that apply)

1. **O&M Documents**

☐ O&M Manuals

☐ Readily available

☐ Up to date

☒ N/A

☐ As-Built Drawings

☐ Readily available

☐ Up to date

☒ N/A

☐ Maintenance Logs

☐ Readily available

☐ Up to date

☒ N/A

Remarks:



<b>2. Health and Safety Plan Documents</b> <input type="checkbox"/> Site-Specific Health and Safety Plan <input type="checkbox"/> Contingency plan/emergency response plan <u>Remarks:</u>	<input type="checkbox"/> Readily available <input type="checkbox"/> Readily available	<input type="checkbox"/> Up to date <input type="checkbox"/> Up to date	<input checked="" type="checkbox"/> N/A <input checked="" type="checkbox"/> N/A
<b>3. O&amp;M and OSHA Training Records</b> <u>Remarks:</u>	<input type="checkbox"/> Readily available	<input type="checkbox"/> Up to date	<input checked="" type="checkbox"/> N/A
<b>4. Permits and Service Agreements</b> <input type="checkbox"/> Air discharge permit <input type="checkbox"/> Effluent discharge <input type="checkbox"/> Waste disposal, POTW <input type="checkbox"/> Other permits <u>Remarks:</u>	<input type="checkbox"/> Readily available <input type="checkbox"/> Readily available <input type="checkbox"/> Readily available <input type="checkbox"/> Readily available	<input type="checkbox"/> Up to date <input type="checkbox"/> Up to date <input type="checkbox"/> Up to date <input type="checkbox"/> Up to date	<input checked="" type="checkbox"/> N/A <input checked="" type="checkbox"/> N/A <input checked="" type="checkbox"/> N/A <input checked="" type="checkbox"/> N/A
<b>5. Gas Generation Records</b> <u>Remarks:</u>	<input type="checkbox"/> Readily available	<input type="checkbox"/> Up to date	<input checked="" type="checkbox"/> N/A
<b>6. Settlement Monument Records</b> <u>Remarks:</u>	<input type="checkbox"/> Readily available	<input type="checkbox"/> Up to date	<input checked="" type="checkbox"/> N/A
<b>7. Groundwater Monitoring Records</b> <u>Remarks:</u>	<input type="checkbox"/> Readily available	<input type="checkbox"/> Up to date	<input checked="" type="checkbox"/> N/A
<b>8. Leachate Extraction Records</b> <u>Remarks:</u>	<input type="checkbox"/> Readily available	<input type="checkbox"/> Up to date	<input checked="" type="checkbox"/> N/A
<b>9. Discharge Compliance Records</b> <u>Remarks:</u>	<input type="checkbox"/> Readily available	<input type="checkbox"/> Up to date	<input checked="" type="checkbox"/> N/A

<b>10. Daily Access/Security Logs</b> <u>Remarks:</u>	<input type="checkbox"/> Readily available	<input type="checkbox"/> Up to date	<input checked="" type="checkbox"/> N/A																																								
<b>IV. O&amp;M Costs</b>																																											
<input type="checkbox"/> Applicable <input checked="" type="checkbox"/> N/A																																											
<b>1. O&amp;M Organization</b> <input type="checkbox"/> State in-house <input type="checkbox"/> Contractor for State <input type="checkbox"/> PRP in-house <input type="checkbox"/> Contractor for PRP <input type="checkbox"/> Other: Contractor																																											
<b>2. O&amp;M Cost Records</b>  <div style="display: flex; justify-content: space-between;"> <div> <input type="checkbox"/> Readily available  <u>Original O&amp;M cost estimate:</u> </div> <div> <input type="checkbox"/> Up to date  <input type="checkbox"/> Breakdown attached         </div> <div> <input type="checkbox"/> Funding mechanism/agreement in place         </div> </div> <div style="text-align: center; margin-top: 10px;"> <u>Total annual cost by year for review period if available</u> </div> <table style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 20%;"><u>From (Date):</u></td> <td style="width: 20%;"><u>To (Date):</u></td> <td style="width: 20%;"><u>Total cost:</u></td> <td style="width: 40%; text-align: right;"><input type="checkbox"/> Breakdown attached</td> </tr> <tr><td> </td><td> </td><td> </td><td> </td></tr> <tr> <td><u>From (Date):</u></td> <td><u>To (Date):</u></td> <td><u>Total cost:</u></td> <td style="text-align: right;"><input type="checkbox"/> Breakdown attached</td> </tr> <tr><td> </td><td> </td><td> </td><td> </td></tr> <tr> <td><u>From (Date):</u></td> <td><u>To (Date):</u></td> <td><u>Total cost:</u></td> <td style="text-align: right;"><input type="checkbox"/> Breakdown attached</td> </tr> <tr><td> </td><td> </td><td> </td><td> </td></tr> <tr> <td><u>From (Date):</u></td> <td><u>To (Date):</u></td> <td><u>Total cost:</u></td> <td style="text-align: right;"><input type="checkbox"/> Breakdown attached</td> </tr> <tr><td> </td><td> </td><td> </td><td> </td></tr> <tr> <td><u>From (Date):</u></td> <td><u>To (Date):</u></td> <td><u>Total cost:</u></td> <td style="text-align: right;"><input type="checkbox"/> Breakdown attached</td> </tr> <tr><td> </td><td> </td><td> </td><td> </td></tr> </table> <u>Remarks:</u>				<u>From (Date):</u>	<u>To (Date):</u>	<u>Total cost:</u>	<input type="checkbox"/> Breakdown attached					<u>From (Date):</u>	<u>To (Date):</u>	<u>Total cost:</u>	<input type="checkbox"/> Breakdown attached					<u>From (Date):</u>	<u>To (Date):</u>	<u>Total cost:</u>	<input type="checkbox"/> Breakdown attached					<u>From (Date):</u>	<u>To (Date):</u>	<u>Total cost:</u>	<input type="checkbox"/> Breakdown attached					<u>From (Date):</u>	<u>To (Date):</u>	<u>Total cost:</u>	<input type="checkbox"/> Breakdown attached				
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<u>From (Date):</u>	<u>To (Date):</u>	<u>Total cost:</u>	<input type="checkbox"/> Breakdown attached																																								
<b>3. Unanticipated or Unusually High O&amp;M Costs During Review Period</b> <u>Describe costs and reasons:</u>																																											
<b>V. ACCESS AND INSTITUTIONAL CONTROLS</b>																																											
<input checked="" type="checkbox"/> Applicable <input type="checkbox"/> N/A																																											
<b>1. Fencing</b>																																											
<b>1. Fencing damaged</b> <input checked="" type="checkbox"/> Location shown on site map <input type="checkbox"/> Gates secured <input type="checkbox"/> N/A <u>Remarks:</u> Three access gates were visited during the site inspection at OU 1 (the undeveloped area). Only the gate located near the intersection of St Ferdinand Street and Benefit Street was secured with a lock. An access gate located on the corner of Saint Ferdinand St. and Abundance St. was partially "secured" with a rubber strap. The west perimeter fence had been breached on Almonaster Ave. This gate had been forced open and unauthorized dumping activities related to hurricane Katrina reconstruction have taken place.																																											

<b>2. Other Access Restrictions</b>
<b>1. Signs and other security measures</b> <input type="checkbox"/> Location shown on site map <input type="checkbox"/> N/A <u>Remarks:</u> Three no dumping signs along the perimeter fence were observed during the site inspection.
<b>3. Institutional Controls</b>
<b>1. Implementation and enforcement</b> Site conditions imply ICs not properly implemented: <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A Site conditions imply ICs not being fully enforced: <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A Type of monitoring (e.g, self-reporting, drive by): Frequency: Responsible party/agency: LDEQ Contact: Name: Todd Thibodeaux Title: Project Manager Date: Phone Number: Reporting is up-to-date: <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A Reports are verified by the lead agency: <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A Specific requirements in deed or decision documents have been met: <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A Violations have been reported: <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A Other problems or suggestions: <input type="checkbox"/> Additional report attached (if additional space required).
<b>2. Adequacy</b> <input type="checkbox"/> ICs are adequate <input type="checkbox"/> ICs are inadequate <input checked="" type="checkbox"/> N/A <u>Remarks:</u> The EPA is currently working with the City of New Orleans to implement ICs and related issues that were brought up during the last five year review.
<b>4. General</b>
<b>1. Vandalism/trespassing</b> <input type="checkbox"/> Location shown on site map <input type="checkbox"/> No vandalism evident <u>Remarks:</u> Vandalism at the site is evident because there have been dumping activities at the OU 1. Chains and locks have been removed from the gates and some sections of the fence have been damaged. The fence is overgrown with heavy vegetation. The overall condition of the fence is poor.
<b>2. Land use changes onsite</b> <input checked="" type="checkbox"/> N/A <u>Remarks:</u>
<b>3. Land use changes offsite</b> <input checked="" type="checkbox"/> N/A <u>Remarks:</u>
<b>VI. GENERAL SITE CONDITIONS</b>
<b>1. Roads</b> <input checked="" type="checkbox"/> Applicable <input type="checkbox"/> N/A
<b>1. Roads damaged</b> <input type="checkbox"/> Location shown on site map <input checked="" type="checkbox"/> Roads adequate <input type="checkbox"/> N/A

<u>Remarks:</u>			
<b>2. Other Site Conditions</b>			
<u>Remarks:</u> A full inspection of the OU 1 cap was not possible due to heavy overgrown vegetation. The areas that were inspected appeared to be in good condition, with some areas showing slight erosion. Some low areas were observed on the undeveloped portion (OU1).			
<b>VII. LANDFILL COVERS</b>		<input checked="" type="checkbox"/> Applicable	<input type="checkbox"/> N/A
<b>1. Landfill Surface</b>			
1. Settlement (Low spots) Areal extent: <u>Remarks:</u>	<input type="checkbox"/> Location shown on site map Depth:	<input checked="" type="checkbox"/> Settlement not evident	
2. Cracks Lengths: <u>Remarks:</u>	<input type="checkbox"/> Location shown on site map Widths:                  Depths:	<input checked="" type="checkbox"/> Cracking not evident	
3. Erosion Areal extent: <u>Remarks:</u> Some small areas of erosion were observed.	<input type="checkbox"/> Location shown on site map Depth:	<input checked="" type="checkbox"/> Erosion not evident	
4. Holes Areal extent: <u>Remarks:</u>	<input type="checkbox"/> Location shown on site map Depth:	<input checked="" type="checkbox"/> Holes not evident	
5. Vegetative Cover <input checked="" type="checkbox"/> Cover properly established <input type="checkbox"/> No signs of stress <input checked="" type="checkbox"/> Grass <input checked="" type="checkbox"/> Trees/Shrubs <u>Remarks:</u> A great extent of OU 1 was heavily vegetated. Medium size trees and shrubs were present at OU 1.			
6. Alternative Cover (armored rock, concrete, etc.) <u>Remarks:</u>		<input checked="" type="checkbox"/> N/A	
7. Bulges Areal extent: <u>Remarks:</u>	<input type="checkbox"/> Location shown on site map Height:	<input checked="" type="checkbox"/> Bulges not evident	

<p>8. Wet Areas/Water Damage</p> <p><input type="checkbox"/> Wet areas</p> <p><input type="checkbox"/> Ponding</p> <p><input type="checkbox"/> Seeps</p> <p><input type="checkbox"/> Soft subgrade</p> <p><u>Remarks:</u></p>	<p><input checked="" type="checkbox"/> Wet areas/water damage not evident</p> <p><input type="checkbox"/> Location shown on site map      Areal extent:</p> <p><input type="checkbox"/> Location shown on site map      Areal extent:</p> <p><input type="checkbox"/> Location shown on site map      Areal extent:</p> <p><input type="checkbox"/> Location shown on site map      Areal extent:</p>
<p>9. Slope Instability</p> <p>Areal extent:</p> <p><u>Remarks:</u></p>	<p><input type="checkbox"/> Slides      <input type="checkbox"/> Location shown on site map      <input checked="" type="checkbox"/> No evidence of slope instability</p>
<p>2. Benches</p>	<p><input type="checkbox"/> Applicable    <input checked="" type="checkbox"/> N/A</p>
<p>1. Flows Bypass Bench</p> <p><u>Remarks:</u></p>	<p><input type="checkbox"/> Location shown on site map      <input type="checkbox"/> N/A or okay</p>
<p>2. Bench Breached</p> <p><u>Remarks:</u></p>	<p><input type="checkbox"/> Location shown on site map      <input type="checkbox"/> N/A or okay</p>
<p>3. Bench Overtopped</p> <p><u>Remarks:</u></p>	<p><input type="checkbox"/> Location shown on site map      <input type="checkbox"/> N/A or okay</p>
<p>3. Letdown Channels</p>	<p><input type="checkbox"/> Applicable    <input checked="" type="checkbox"/> N/A</p>
<p>1. Settlement</p> <p>Areal extent:</p> <p><u>Remarks:</u></p>	<p><input type="checkbox"/> Location shown on site map      <input type="checkbox"/> No evidence of settlement</p> <p>Depth:</p>
<p>2. Material Degradation</p> <p>Material type:</p> <p><u>Remarks:</u></p>	<p><input type="checkbox"/> Location shown on site map      <input type="checkbox"/> No evidence of degradation</p> <p>Areal extent:</p>
<p>3. Erosion</p> <p>Areal extent:</p> <p><u>Remarks:</u></p>	<p><input type="checkbox"/> Location shown on site map      <input type="checkbox"/> No evidence of erosion</p> <p>Depth:</p>

4.	Undercutting Areal extent: <u>Remarks:</u>	<input type="checkbox"/> Location shown on site map Depth:	<input type="checkbox"/> No evidence of undercutting
5.	Obstructions Type: Areal extent: <u>Remarks:</u>	<input type="checkbox"/> Location shown on site map Height:	<input type="checkbox"/> N/A
6.	Excessive Vegetative Growth <input type="checkbox"/> Evidence of excessive growth <input type="checkbox"/> Location shown on site map <u>Remarks:</u>	<input type="checkbox"/> No evidence of excessive growth <input type="checkbox"/> Vegetation in channels but does not obstruct flow Areal extent:	
4.	Cover Penetrations	<input type="checkbox"/> Applicable <input checked="" type="checkbox"/> N/A	
1.	Gas Vents <input type="checkbox"/> Active <input type="checkbox"/> Passive <input type="checkbox"/> Properly secured/locked <input type="checkbox"/> Evidence of leakage at penetration <u>Remarks:</u>	<input type="checkbox"/> Routinely sampled <input type="checkbox"/> Functioning <input type="checkbox"/> Needs O&M	<input type="checkbox"/> N/A <input type="checkbox"/> Good condition
2.	Gas Monitoring Probes <input type="checkbox"/> Routinely sampled <input type="checkbox"/> Properly secured/locked <input type="checkbox"/> Evidence of leakage at penetration <u>Remarks:</u>	<input type="checkbox"/> Functioning <input type="checkbox"/> Needs O&M	<input type="checkbox"/> N/A <input type="checkbox"/> Good condition
3.	Monitoring Wells (within surface area of landfill) <input type="checkbox"/> Routinely sampled <input type="checkbox"/> Properly secured/locked <input type="checkbox"/> Evidence of leakage at penetration <u>Remarks:</u>	<input type="checkbox"/> Functioning <input type="checkbox"/> Needs O&M	<input type="checkbox"/> N/A <input type="checkbox"/> Good condition
4.	Leachate Extraction Wells <input type="checkbox"/> Routinely sampled <input type="checkbox"/> Properly secured/locked <input type="checkbox"/> Evidence of leakage at penetration <u>Remarks:</u>	<input type="checkbox"/> Functioning <input type="checkbox"/> Needs O&M	<input type="checkbox"/> N/A <input type="checkbox"/> Good condition

5. Settlement Monuments <u>Remarks:</u>	<input type="checkbox"/> Located <input type="checkbox"/> Routinely surveyed	<input type="checkbox"/> N/A
5. Gas Collection and Treatment <input type="checkbox"/> Applicable <input checked="" type="checkbox"/> N/A		
1. Gas Treatment Facilities <input type="checkbox"/> Flaring <input type="checkbox"/> Thermal destruction <input type="checkbox"/> Collection for reuse <input type="checkbox"/> Good condition <input type="checkbox"/> Needs O& M <u>Remarks:</u>	<input type="checkbox"/> N/A	
2. Gas Collection Wells, Manifolds and Piping <input type="checkbox"/> Good condition <input type="checkbox"/> Needs O& M <u>Remarks:</u>	<input type="checkbox"/> N/A	
3. Gas Monitoring Facilities (e.g., gas monitoring of adjacent homes or buildings) <input type="checkbox"/> Good condition <input type="checkbox"/> Needs O& M <u>Remarks:</u>	<input type="checkbox"/> N/A	
6. Cover Drainage Layer <input type="checkbox"/> Applicable <input checked="" type="checkbox"/> N/A		
1. Outlet Pipes Inspected <u>Remarks:</u>	<input type="checkbox"/> Functioning	<input type="checkbox"/> N/A
2. Outlet Rock Inspected <u>Remarks:</u>	<input type="checkbox"/> Functioning	<input type="checkbox"/> N/A
7. Detention/Sedimentation Ponds <input type="checkbox"/> Applicable <input checked="" type="checkbox"/> N/A		
1. Siltation Areal extent: <input type="checkbox"/> Siltation evident Depth: <input type="checkbox"/> N/A <u>Remarks:</u>		
2. Erosion Areal extent: <input type="checkbox"/> Erosion evident Depth: <input type="checkbox"/> N/A <u>Remarks:</u>		
3. Outlet Works <u>Remarks:</u>	<input type="checkbox"/> Functioning	<input type="checkbox"/> N/A

4. Dam <u>Remarks:</u>	<input type="checkbox"/> Functioning	<input type="checkbox"/> N/A
8. Retaining Walls <input type="checkbox"/> Applicable <input checked="" type="checkbox"/> N/A		
1. Deformations Horizontal displacement: Vertical displacement: <u>Remarks:</u>	<input type="checkbox"/> Location shown on site map	<input type="checkbox"/> Deformation not evident Rotational displacement:
2. Degradation <u>Remarks:</u>	<input type="checkbox"/> Location shown on site map	<input type="checkbox"/> Degradation not evident
9. Perimeter Ditches/Off-site discharge <input type="checkbox"/> Applicable <input checked="" type="checkbox"/> N/A		
1. Siltation Areal extent: Depth: <u>Remarks:</u>	<input type="checkbox"/> Location shown on site map	<input type="checkbox"/> Siltation not evident
2. Vegetative Growth Areal extent: Type: <u>Remarks:</u>	<input type="checkbox"/> Location shown on site map	<input type="checkbox"/> Vegetation does not impede flow
3. Erosion Areal extent: Depth: <u>Remarks:</u>	<input type="checkbox"/> Location shown on site map	<input type="checkbox"/> Erosion not evident
4. Discharge Structure <input type="checkbox"/> Functioning <u>Remarks:</u>	<input type="checkbox"/> Location shown on site map <input type="checkbox"/> Good Condition	<input type="checkbox"/> N/A



VIII. VERTICAL BARRIER WALLS			<input type="checkbox"/> Applicable	<input checked="" type="checkbox"/> N/A
1. Settlement Areal extent: Depth: Remarks:	<input type="checkbox"/> Location shown on site map	<input type="checkbox"/> Settlement not evident		
2. Performance Monitoring <input type="checkbox"/> Performance not monitored <input type="checkbox"/> Performance monitored <input type="checkbox"/> Evidence of breaching Remarks:	Frequency: Head differential:	<input type="checkbox"/> N/A		
IX. GROUNDWATER/SURFACE WATER REMEDIES			<input type="checkbox"/> Applicable	<input checked="" type="checkbox"/> N/A
1. Groundwater Extraction Wells, Pumps, and Pipelines			<input type="checkbox"/> Applicable	<input type="checkbox"/> N/A
1. Pumps, Wellhead Plumbing, and Electrical <input type="checkbox"/> All required wells located Remarks:	<input type="checkbox"/> Good condition	<input type="checkbox"/> Needs O& M	<input type="checkbox"/> N/A	
2. Extraction System Pipelines, Valves, Valve Boxes, and Other Appurtenances <input type="checkbox"/> System located Remarks:	<input type="checkbox"/> Good condition	<input type="checkbox"/> Needs O& M	<input type="checkbox"/> N/A	
3. Spare Parts and Equipment <input type="checkbox"/> Readily available <input type="checkbox"/> Requires Upgrade Remarks:	<input type="checkbox"/> Good condition <input type="checkbox"/> Needs to be provided	<input type="checkbox"/> N/A		
2. Surface Water Collection Structures, Pumps, and Pipelines			<input type="checkbox"/> Applicable	<input type="checkbox"/> N/A
1. Collection Structures, Pumps, and Electrical <input type="checkbox"/> Good condition Remarks:	<input type="checkbox"/> Needs O& M	<input type="checkbox"/> N/A		
2. Surface Water Collection System Pipelines, Valves, Valve Boxes, and Other Appurtenances <input type="checkbox"/> Good condition Remarks: Not observed.	<input type="checkbox"/> Needs O& M	<input type="checkbox"/> N/A		

3.	Spare Parts and Equipment <input type="checkbox"/> Readily available <input type="checkbox"/> Good condition <input type="checkbox"/> Requires Upgrade <input type="checkbox"/> Needs to be provided <u>Remarks:</u>	<input type="checkbox"/> N/A
3.	Treatment System	<input type="checkbox"/> Applicable <input type="checkbox"/> N/A
1.	Treatment Train (Check components that apply) <input type="checkbox"/> Metals removal <input type="checkbox"/> Oil/water separation <input type="checkbox"/> Bioremediation <input type="checkbox"/> Air stripping <input type="checkbox"/> Carbon adsorbers <input type="checkbox"/> Filters (list type): <input type="checkbox"/> Additive (list type, e.g., chelation agent, flocculent) <input type="checkbox"/> Others (list): <input type="checkbox"/> Good condition <input type="checkbox"/> Needs O&M <input type="checkbox"/> Sampling ports properly marked and functional <input type="checkbox"/> Sampling/maintenance log displayed and up to date <input type="checkbox"/> Equipment properly identified <input type="checkbox"/> Quantity of groundwater treated annually (list volume): <input type="checkbox"/> Quantity of surface water treated annually (list volume): <u>Remarks:</u>	
2.	Electrical Enclosures and Panels (properly rated and functional) <input type="checkbox"/> Good condition <input type="checkbox"/> Needs O& M <u>Remarks:</u> See Hurricane Katrina Response Technical Memorandum, February 2006	<input type="checkbox"/> N/A
3.	Tanks, Vaults, Storage Vessels <input type="checkbox"/> Good condition <input type="checkbox"/> Proper secondary containment <u>Remarks:</u>	<input type="checkbox"/> N/A <input type="checkbox"/> Needs O&M
4.	Discharge Structure and Appurtenances <input type="checkbox"/> Good condition <input type="checkbox"/> Needs O& M <u>Remarks:</u>	<input type="checkbox"/> N/A
5.	Treatment Building(s) <input type="checkbox"/> Good condition (esp. roof and doorways) <input type="checkbox"/> Needs Repair <input type="checkbox"/> Chemicals and equipment properly stored <u>Remarks:</u>	<input type="checkbox"/> N/A

6.	Monitoring Wells (pump and treatment remedy)	<input type="checkbox"/> N/A	
	<input type="checkbox"/> All required wells located	<input type="checkbox"/> Properly secured/locked	<input type="checkbox"/> Functioning <input type="checkbox"/> Routinely sampled
	<input type="checkbox"/> Good condition	<input type="checkbox"/> Needs O&M	
	<u>Remarks:</u>		
4.	Monitored Natural Attenuation	<input type="checkbox"/> Applicable	<input type="checkbox"/> N/A
1.	Monitoring Wells (natural attenuation remedy)	<input type="checkbox"/> N/A	
	<input type="checkbox"/> All required wells located	<input type="checkbox"/> Properly secured/locked	<input type="checkbox"/> Functioning <input type="checkbox"/> Routinely sampled
	<input type="checkbox"/> Good condition	<input type="checkbox"/> Needs O&M	
	<u>Remarks:</u>		
5.	Long Term Monitoring	<input type="checkbox"/> Applicable	<input type="checkbox"/> N/A
1.	Monitoring Wells	<input type="checkbox"/> N/A	
	<input type="checkbox"/> All required wells located	<input type="checkbox"/> Properly secured/locked	<input type="checkbox"/> Functioning <input type="checkbox"/> Routinely sampled
	<input type="checkbox"/> Good condition	<input type="checkbox"/> Needs O&M	
	<u>Remarks:</u>		
<b>X. OTHER REMEDIES</b>		<input type="checkbox"/> Applicable	<input checked="" type="checkbox"/> N/A
<p>If there are remedies applied at the site which are not covered above, attach an inspection sheet describing the physical nature and condition of any facility associated with the remedy. An example would be soil vapor extraction.</p>			
<b>XI. OVERALL OBSERVATIONS</b>			
1. Implementation of the Remedy			
<p>Describe issues and observations relating to whether the remedy is effective and functioning as designed. Begin with a brief statement of what the remedy is to accomplish (i.e., to contain contaminant plume, minimize infiltration and gas emission, etc.).</p> <p>Based on visual inspection of the Operable Units 1, 2 and 3 where removal actions were conducted, it appears that Hurricane Katrina did not affect the integrity of the remedies that have been completed at the Agriculture Street Landfill Superfund Site. The geotextile liner was not observed to be impacted by flooding at each of the locations visited. Some small areas of erosion were observed at OU 1, however a great extent of OU 1 is heavily vegetated. Medium size trees and shrubs were present at OU 1.</p> <p>Illegal dumping activities were taking place at OU 1. Gates at OU 1 were breached to allow access to dump debris originated as a result of reconstruction in the area. Chains and locks were removed from the gates and some sections of the fence have been damaged. Heavy vegetation is visible along the site fence. The overall condition of the fence at OU1 is questionable. LDEQ placed new locks and chains on all the gates to restrict unauthorized access to OU 1.</p>			

## 2. Adequacy of O&M

Describe issues and observations related to the implementation and scope of O&M procedures. In particular, discuss their relationship to the current and long-term protectiveness of the remedy.

After removal action activities were conducted at OU 1, 2 and 3 all property owners where remedial action took place received instructions for routine maintenance of the surface and excavation of soil above and below the geotextile barrier. The instructions were also made available at the repositories. These instructions provided guidance for routine surface maintenance activities such as filling holes above the geotextile barrier, cultivation of vegetative cover, and excavation of soils. Each OU property owner is responsible for maintenance of the cap and vegetative cover.

## 3. Early Indicators of Potential Remedy Failure

Describe issues and observations such as unexpected changes in the cost or scope of O&M or a high frequency of unscheduled repairs that suggest that the protectiveness of the remedy may be compromised in the future.

Based on the site inspection, there were no early indicators of potential remedy failure. There were several water mains and/or fire hydrants leaking along Press Street. No erosion was evident at the locations as a result of the leaks.

## 4. Opportunities for Optimization

Describe possible opportunities for optimization in monitoring tasks or the operation of the remedy.

No opportunities for optimization are present at the ASL Site.

**Inspection Team Roster**  
**Date of Site Inspection –**

<b>Name</b>	<b>Organization</b>	<b>Title</b>
Nora Lane	LDEQ	Environmental Scientist
Rich Johnson	LDEQ	Environmental Scientist
Darren Davis	CH2M HILL	5-Year Review Project Manager
Victor Martinez	CH2M HILL	Staff Engineer

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## **Attachment 4**

### **Site Inspection Photographs**

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Photo 1: View looking west at one of the OU 1 gates in the former response action staging area.

Filename: ASL 001.jpg



Photo 2: View looking northwest inside OU 1. Debris from reconstruction efforts were dumped at the former response action staging area.

Filename: ASL 002.jpg





Photo 3: View looking west inside OU 1. Several mounds of debris were dumped inside OU 1 at the former response action staging area.

Filename: ASL 003.jpg



Photo 4: Inside OU 1, looking west through the security fence. Almonaster Blvd is in background. Chains and locks were removed at this gate. LDEQ personnel came back and placed new chains and lock on the gate.

Filename: ASL 004.jpg





Photo 5: View looking south inside OU 1. Several mounds of debris were dumped inside OU1.

Filename: ASL 005.jpg



Photo 6: View looking west inside OU 1. Overgrown vegetation covers most of the OU 1 site.

Filename: ASL 006.jpg





Photo 7: View inside OU 1 looking southwest where overgrown vegetation is visible.

Filename: ASL 007.jpg



Photo 8: View inside OU 1 looking south where a semi-trailer was left.

Filename: ASL 008.jpg





Photo 9: Looking north along St. Ferdinand Street. OU1 on the left and OU 2 residences on the right of the photograph. Some dumping activities have occurred just outside OU1 in St. Ferdinand St..

Filename: ASL 009.jpg



Photo 10: Looking west towards OU1 at south entrance gate at the corner of St. Ferdinand St. and Abundance St. Chains and locks had been removed and the gate was tied with a rubber strap tie. LDEQ personnel came back and placed a new chain and lock at this gate.

Filename: ASL 010.jpg





Photo 11: View looking southwest inside OU1. The Almonaster Blvd. overpass is in background. Vegetation on cap is overgrown.

Filename: ASL 011.jpg



Photo 12: View looking south inside OU 1 showing overgrown vegetation on cap.

Filename: ASL 012.jpg





Photo 13: View looking southeast inside OU 1 showing overgrown vegetation on cap.

Filename: ASL 013.jpg



Photo 14: View inside OU 1 showing one of the several trees growing on the OU 1 cap.

Filename: ASL 014.jpg





Photo 15: View of damaged fence near one of the gates at the corner of St. Ferdinand St. and Abundance St.

Filename: ASL 015.jpg



Photo 16: View looking east along Abundance St.

Filename: ASL 016.jpg





Photo 17: View looking north at the corner of St. Ferdinand St. and Abundance St. OU 1 on left and residential homes from OU 2 on right.

Filename: ASL 017.jpg



Photo 18: View looking southwest along Press St. Moton Elementary School is on the left and OU 2 residential homes on the right.

Filename: ASL 018.jpg



Photo 19: Looking southeast at Moton Elementary school.

Filename: ASL 019.jpg



Photo 20: View looking north at Gordon Plaza Apartments.

Filename: ASL 020.jpg





Photo 21: View looking south along Gordon Plaza Drive.

Filename: ASL 021.jpg



Photo 22: View looking east along Benefit St. at the corner of Gordon Plaza Dr.

Filename: ASL 022.jpg



Photo 23: View looking east along Benefit St. Gordon Plaza Apartments on the left of the photograph and HANO Housing Press Court Apartments at center of photograph.

Filename: ASL 023.jpg



Photo 24: View looking north next to the HANO Housing Press Court Apartments. Mounds of debris are left in the drive.

Filename: ASL 024.jpg





Photo 25: View looking east towards the Shirley Jefferson Community Center.

Filename: ASL 025.jpg



Photo 26: View looking north along Press Street. HANO Housing Press Court Apartments on both sides of the street.

Filename: ASL 026.jpg



Photo 27: View looking west along Vision Drive.

Filename: ASL 027.jpg



Photo 28: View of abandoned apartments looking east at the corner of Vision Drive and Press Street.

Filename: ASL 028.jpg





Photo 29: View looking east along Gordon Plaza Drive.

Filename: ASL 029.jpg



Photo 30: Construction debris left at the corner of Press Street and Marcus Christian Drive. A water leak apparently coming from a fire hydrant was spotted at this location (behind construction debris in background).

Filename: ASL 030.jpg



Photo 31: View looking northwest along Marcus Christian Drive.

Filename: ASL 031.jpg



Photo 32: View of overgrown grass in a Gordon Plaza drive residential property.

Filename: ASL 032.jpg





Photo 33: View of overgrown grass in a Gordon Plaza drive residential property.

Filename: ASL 033.jpg



Photo 34: View of one of three no dumping signs observed on the OU1 fence.

Filename: ASL 034.jpg





Photo 35: View looking east at one of HANOs Housing complex. A water leak was spotted at this location apparently coming from one of the apartments.

Filename: ASL 035.jpg



Photo 36: View looking west at one of HANOs Housing complex.

Filename: ASL 036.jpg





Photo 37: View looking south along Press Street. HANO Housing apartments on both sides of the street.

Filename: ASL 037.jpg



Photo 38: View of an excavated area near a water main line at Press Street. The geotextile liner was not exposed.

Filename: ASL 038.jpg





Photo 39: Evidence of digging along the sidewalk at Press Street near the corner of Benefit Street. The geotextile liner was not exposed.

Filename: ASL 039.jpg



Photo 40: View looking south towards the Shirley Jefferson Community Center.

Filename: ASL 040.jpg



Photo 41: View looking northeast from the Almonaster Blvd overpass towards the south portion of OU1.

Filename: ASL 041.jpg



Photo 42: View looking east from the Almonaster Blvd overpass towards the south portion of OU1.

Filename: ASL 042.jpg





Photo 43: View looking north from the Almonaster Blvd overpass towards the south portion of OU1.

Filename: ASL 043.jpg



Photo 44: View looking south towards the Moton Elementary School parking lot.

Filename: ASL 044.jpg



Photo 45: View looking west at the front of Moton Elementary School.

Filename: ASL 045.jpg



Photo 46: View looking northwest towards abandoned apartment complex along Abundance Street.

Filename: ASL 046.jpg





Photo 47: View looking north towards abandoned apartment complex along Abundance Street.

Filename: ASL 047.jpg



Photo 48: A water leak apparently from a fire hydrant. View is to the south at the corner of Press Street and Benefit Street.

Filename: ASL 048.jpg





Photo 49: A water leak was spotted at this location apparently coming from one of HANO's apartments.

Filename: ASL 049.jpg



Photo 50: View looking north along Press Street. Water is coming from one of HANO's Housing apartment complex.

Filename: ASL 050.jpg

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## **Attachment 5**

### **Notices to the Public Regarding the Five-Year Review**

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**AGRICULTURE STREET LANDFILL  
SUPERFUND SITE PUBLIC NOTICE  
U.S. EPA Region 6 Begins  
Second Five-Year Review of Site Remedy  
December 2007**



The U.S. Environmental Protection Agency Region 6 (EPA) has begun the Second Five-Year Review of the remedy for the Agriculture Street Landfill Site. The review will evaluate the soil removal action conducted at the site to correct contamination problems and protect public health and the environment. The site is located within the eastern city limits of New Orleans, Orleans Parish, Louisiana, approximately 3 miles south of Lake Pontchartrain and three miles north-northeast of the city's central business district.

Once completed, the results of the Five-Year Review will be made available to the public on the Internet along with other site information at: [www.epa.gov/earth1r6/6sf](http://www.epa.gov/earth1r6/6sf) and at the following information repository:

**Louisiana Department of Environmental Quality  
Public Records  
Galvez Building, Room 127  
602 N. Fifth Street  
Baton Rouge, LA 70802  
8:00 AM to 4:30 PM, Monday-Friday.  
(225) 219-3172 or e-mail [publicrecords@la.gov](mailto:publicrecords@la.gov)**

Questions or concerns about the Agriculture Street Landfill Site should be directed to Ursula Lennox/Remedial Project Manager at (214) 665-6743 or Janetta Coats/Community Involvement Coordinator at (214) 665-7308 or 1-800-533-3508 toll-free.

**CONFIRMED PUBLICATION** in the New Orleans Times-Picayune on December 27, 2007

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**AGRICULTURE STREET LANDFILL  
SUPERFUND SITE PUBLIC NOTICE  
U.S. EPA Region 6 Completes  
Second Five-Year Review of Site Remedy  
April 2008**



The U.S. Environmental Protection Agency Region 6 (EPA) has completed the Second Five-Year Review of the remedy for the Agriculture Street Landfill Site. The review evaluated the soil removal action conducted at the site to correct contamination problems and protect public health and the environment. The site is located within the eastern city limits of New Orleans, Orleans Parish, Louisiana, approximately 3 miles south of Lake Pontchartrain and three miles north-northeast of the city's central business district.

**Results of the Five-Year Review**

The results of the Second Five-Year Review indicate that the remedy remains protective of human health and the environment. The results of the Second Five-Year Review are available for public review on the Internet along with other site information at: [www.epa.gov/earth1r6/6sf](http://www.epa.gov/earth1r6/6sf) and at the following information repository:

**Louisiana Department of Environmental Quality  
Public Records  
Galvez Building, Room 127  
602 N. Fifth Street  
Baton Rouge, LA 70802  
8:00 AM to 4:30 PM, Monday-Friday.  
(225) 219-3172 or e-mail [publicrecords@la.gov](mailto:publicrecords@la.gov)**

Questions or concerns about the Agriculture Street Landfill Site should be directed to Ursula Lennox/Remedial Project Manager at (214) 665-6743 or Janetta Coats/Community Involvement Coordinator at (214) 665-7308 or 1-800-533-3508 toll-free.

For publication in the New Orleans Times-Picayune

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## **Attachment 6**

### **Closeout Letters and Instructions for OU Property Owners**

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**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY**  
**REGION 6**  
**1445 ROSS AVENUE, SUITE 1200**  
**DALLAS, TX 75202-2733**

[CLOSEOUT LETTER FOR OUI PROPERTY OWNERS]

[date]

**CERTIFIED MAIL**  
**RETURN RECEIPT REQUESTED**

Re: Agriculture Street Landfill Superfund Site: Completion of an environmental response action at property located at: []

Dear :

The U.S. Environmental Protection Agency (EPA) recently completed the Non-Time Critical Soil Removal Action ("Soil Removal Action" or "Action"), an environmental response action authorized by Action Memorandum issued Sept. 2, 1997, on properties within Operable Unit No. 1 of the Agriculture Street Landfill Site. The Action was implemented to remove the potential threat to human health and the environment presented by landfill contaminants, particularly lead, arsenic, and polynuclear aromatic hydrocarbons in surface soil.

Completion of the Removal Action

As authorized in the Action Memorandum of Sept. 2, 1997, the following Soil Removal Action was accomplished on the undeveloped property:

1. Clearing and grubbing
2. Grading and contouring to control surface water runoff
3. Placement of Geotextile
4. Capping with 12" of clean soil
5. Revegetation

These actions have now been completed, satisfying the following removal action objectives: to prevent direct and indirect contact, ingestion, and inhalation of soil and wastes contaminated with contaminants of potential concern (COPCs) by human and ecological receptors that could pose unacceptable risks; to prevent the release of COPC-contaminated dust to the air at concentrations that could adversely affect human health and the environment; and to leave the site in a condition that will permit future beneficial use. The Soil Removal Action provides a permanent barrier to prevent further actual or potential exposure of residents to the contaminants

T-1

of concern at the Site. A Certificate of Completion is attached. Also attached are instructions for post-removal maintenance.

A description of the Site, the nature and extent of environmental contamination identified, and the environmental response action selected can be found in the EPA Action Memorandum for the Site dated Sept. 2, 1997. Copies of documents containing information about the site are publicly available for viewing and copying locally at EPA's Community Outreach Office located at 3221 Press Street, New Orleans, La. 70126 and at the following repositories:

Louisiana Department of Environmental Quality      and  
7290 Bluebonnet Blvd.  
Baton Rouge, LA 70810

U.S. EPA  
1445 Ross Ave.  
Dallas, TX 75202

EPA has consulted with the Agency for Toxic Substances and Disease Registry (ATSDR), from the inception of this project to ensure that public health was protected during the implementation of this action and after its conclusion. We are pleased to report that ATSDR concurs with the response action that has been implemented and finds it sufficient to protect public health and the environment.

Should you have any remaining questions or concerns on this effort, please contact Mrs. Janetta Coats, the Community Involvement Coordinator at EPA's Toll-Free number at 1-800-533-3508.

Respectfully,

Ragan Broyles, Acting Chief  
Louisiana/New Mexico Branch

Encl.

T-2

## ATTACHMENT 1

### CERTIFICATE OF COMPLETION

Completion of Environmental Response Action  
Agriculture Street Landfill Superfund Site  
New Orleans, La.

All cleanup actions and other response measures identified in the Action Memorandum of September 2, 1997, to be conducted on Operable Unit No. 1 of the Agriculture Street Landfill Site have been successfully implemented on the property listed above. The response measures have been completed in accordance with the Action Memorandum, and the Statement of Work, Design documents, and workplans, formulated to implement the Action Memorandum. The constructed action is operational and performing according to engineering design specifications. Operation and maintenance activities, including maintenance of the cap and vegetative cover, should be continued by the property owner.

Signed this \_\_\_\_ day of \_\_\_\_\_, 2000.

Lon Biasco  
EPA On-Scene Coordinator

T-2

## ATTACHMENT 2

### POST-REMOVAL MAINTENANCE

Post-closure care of the clean soil cap and vegetative cover consists of routine activities to maintain the integrity of the soil cap and vegetation on your property. Surface maintenance includes simple measures such as filling in holes above the geotextile barrier with clean soil and continued cultivation of the grass, shrubbery, trees, and other landscape features to assure a healthy vegetative cover over the clean fill.

If excavation below the geotextile fabric is required, the procedures for excavation and restoration outlined in the "Technical Abstract Utilities" paper dated July 1998 (available in the EPA Outreach Office), should be followed. In general:

- 1) Clean soils excavated within the top two feet of the excavation (above the geotextile) may be set aside and used as backfill in the same area.
- 2) The geotextile is to be cut to provide access below the barrier.
- 3) Soil excavated from below the barrier is considered to be contaminated landfill material and should be placed on a plastic sheet (away from the clean soil), to avoid contact with the surface soil. Also, proper personal protective equipment (i.e. coveralls, gloves, etc.) may be required to accomplish the work.
- 4) After completing the work, the excavated soil (from below the barrier) may be placed back into the excavation below the barrier as backfill.
- 5) After completion of the backfill below the matted area, the geotextile and marker are to be restored, and the excavation equipment cleaned.
- 6) The soils excavated from the top two feet (or clean fill from another source) can be used as backfill above the geotextile barrier. The area should be re-vegetated and maintained, to off-set the erosion of clean backfill.



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 6  
1445 ROSS AVENUE, SUITE 1200  
DALLAS, TX 75202-2733**

[CLOSEOUT LETTER FOR OU2 PROPERTY OWNERS]

[date]

**CERTIFIED MAIL  
RETURN RECEIPT REQUESTED**

Re: Agriculture Street Landfill Superfund Site: Completion of an environmental response action at property located at: []

Dear :

The U.S. Environmental Protection Agency (EPA) recently completed the Non-Time Critical Soil Removal Action ("Soil Removal Action" or "Action"), an environmental response action authorized by Action Memorandum issued Sept. 2, 1997, on properties to which access was granted within Operable Unit No. 2 of the Agriculture Street Landfill Site, including the property located at []. The Action was implemented to remove the potential threat to human health and the environment presented by landfill contaminants, particularly lead, arsenic, and polynuclear aromatic hydrocarbons in surface soil. This action was selected and implemented based on the assumption that the property will continue to be used for residential purposes.

The "Resident Action Guide" which EPA distributed to community residents in April, 1998, states that the property owner will be given information on measures to apply to maintain the effectiveness of the soil removal action, and will be issued a Work Completion Certificate. This letter will provide you with both of these items.

**Completion of the Removal Action**

EPA has successfully completed the Soil Removal Action, including all of the actions specified for residential properties on OU2 authorized by the Sept. 2, 1997 Action Memorandum, on the property listed above. As authorized in the Action Memorandum of Sept. 2, 1997 and described in the "Resident Action Guide", the Soil Removal Action was accomplished in six steps for the residential properties and the community center. They were:

1. Property Preparation
2. Driveway and Sidewalk Removal (as necessary)
3. Excavation, Placement of Geotextile, and Soil Replacement

J-5

4. Landscaping and Yard Restoration
5. Driveway and Sidewalk Replacement, and
6. Final Detailing.

These actions have now been completed, satisfying the following removal action objectives: to prevent direct and indirect contact, ingestion, and inhalation of soil and wastes contaminated with contaminants of potential concern (COPCs) by human and ecological receptors that could pose unacceptable risks; to prevent the release of COPC-contaminated dust to the air at concentrations that could adversely affect human health and the environment; and to leave the site in a condition that will permit future beneficial use. The Soil Removal Action provides a permanent barrier to prevent further actual or potential exposure of residents to the contaminants of concern at the Site. A Certificate of Completion is attached. Also attached are instructions for post-removal maintenance.

A description of the Site, the nature and extent of environmental contamination identified, and the environmental response action selected can be found in the EPA Action Memorandum for the Site dated Sept. 2, 1997. Copies of documents containing information about the site are publicly available for viewing and copying locally at EPA's Community Outreach Office located at 3221 Press Street, New Orleans, La. 70126 and at the following repositories:

Louisiana Department of Environmental Quality	and	U.S. EPA
7290 Bluebonnet Blvd.		1445 Ross Ave.
Baton Rouge, LA 70810		Dallas, TX 75202

EPA has consulted with the Agency for Toxic Substances and Disease Registry (ATSDR), from the inception of this project to ensure that public health was protected during the implementation of this action and after its conclusion. We are pleased to report that ATSDR concurs with the response action that has been implemented and finds it sufficient to protect public health and the environment.

In closing, the EPA Region 6 team members extend a heartfelt appreciation to you and your family for your time, patience, and participation in this beneficial action. Your participation has established a healthier environment within which you and your family reside. Should you have any remaining questions or concerns on this effort, please contact Mrs. Janetta Coats, the Community Involvement Coordinator at EPA's Toll-Free number at 1-800-533-3508.

Respectfully,

Ragan Broyles, Acting Chief  
Louisiana/New Mexico Branch

Encl.

T-6



ATTACHMENT I

CERTIFICATE OF COMPLETION

Completion of Environmental Response Action  
Agriculture Street Landfill Superfund Site  
New Orleans, La.

All cleanup actions and other response measures identified in the Action Memorandum of September 2, 1997, to be conducted on Operable Unit No. 2 of the Agriculture Street Landfill Site have been successfully implemented on the property listed above. The response measures have been completed in accordance with the Action Memorandum, and the Statement of Work, Design documents, and workplans, formulated to implement the Action Memorandum. The constructed action is operational and performing according to engineering design specifications. Operation and maintenance activities, including maintenance of the cap and vegetative cover, should be continued by the property owner.

Signed this \_\_\_ day of \_\_\_\_\_, 2000.

Lon Biasco  
EPA On-Scene Coordinator

T-11

## ATTACHMENT 2

### POST-REMOVAL MAINTENANCE

Post-closure care of the clean soil cap and vegetative cover consists of routine activities to maintain the integrity of the soil cap and vegetation on your property. Surface maintenance includes simple measures such as filling in holes above the geotextile barrier with clean soil and continued cultivation of the grass, shrubbery, trees, and other landscape features to assure a healthy vegetative cover over the clean fill.

If excavation below the geotextile fabric is required, the procedures for excavation and restoration outlined in the "Technical Abstract Utilities" paper dated July 1998 (available in the EPA Outreach Office), should be followed. In general:

- 1) Clean soils excavated within the top two feet of the excavation (above the geotextile) may be set aside and used as backfill in the same area.
- 2) The geotextile is to be cut to provide access below the barrier.
- 3) Soil excavated from below the barrier is considered to be contaminated landfill material and should be placed on a plastic sheet (away from the clean soil), to avoid contact with the surface soil. Also, proper personal protective equipment (i.e. coveralls, gloves, etc.) may be required to accomplish the work.
- 4) After completing the work, the excavated soil (from below the barrier) may be placed back into the excavation below the barrier as backfill.
- 5) After completion of the backfill below the matted area, the geotextile and marker are to be restored, and the excavation equipment cleaned.
- 6) The soils excavated from the top two feet (or clean fill from another source) can be used as backfill above the geotextile barrier. The area should be re-vegetated and maintained, to off-set the erosion of clean backfill.



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY**  
**REGION 6**  
**1445 ROSS AVENUE, SUITE 1200**  
**DALLAS, TX 75202-2733**

[CLOSEOUT LETTER FOR OU3 PROPERTY OWNER]

[date]

**CERTIFIED MAIL**  
**RETURN RECEIPT REQUESTED**

Re: Agriculture Street Landfill Superfund Site: Completion of an environmental response action at property located at: []

Dear :

The U.S. Environmental Protection Agency (EPA) recently completed the Non-Time Critical Soil Removal Action ("Soil Removal Action" or "Action"), an environmental response action authorized by Action Memorandum issued Sept. 2, 1997, on the Shirley Jefferson Community Center (formerly known as the Press Park Community Center) and associated properties within Operable Unit No. 3 of the Agriculture Street Landfill Site. The Action was implemented to remove the potential threat to human health and the environment presented by landfill contaminants, particularly lead, arsenic, and polynuclear aromatic hydrocarbons in surface soil.

The "Resident Action Guide" which EPA distributed to community residents in April, 1998, states that the property owner will be given information on measures to apply to maintain the effectiveness of the soil removal action, and will be issued a Work Completion Certificate. This letter will provide you with both of these items.

Completion of the Removal Action

EPA has successfully completed the Soil Removal Action, including all of the actions specified for properties on OU3 authorized by the Sept. 2, 1997 Action Memorandum, on the property listed above. As authorized in the Action Memorandum of Sept. 2, 1997 and described in the "Resident Action Guide", the Soil Removal Action was accomplished in six steps for the residential properties and the community center. They were:

1. Property Preparation
2. Driveway and Sidewalk Removal (as necessary)
3. Excavation, Placement of Geotextile, and Soil Replacement

4. Landscaping and Yard Restoration
5. Driveway and Sidewalk Replacement, and
6. Final Detailing.

These actions have now been completed, satisfying the following removal action objectives: to prevent direct and indirect contact, ingestion, and inhalation of soil and wastes contaminated with contaminants of potential concern (COPCs) by human and ecological receptors that could pose unacceptable risks; to prevent the release of COPC-contaminated dust to the air at concentrations that could adversely affect human health and the environment; and to leave the site in a condition that will permit future beneficial use. The Soil Removal Action provides a permanent barrier to prevent further actual or potential exposure of residents to the contaminants of concern at the Site. A Certificate of Completion is attached. Also attached are instructions for post-removal maintenance.

A description of the Site, the nature and extent of environmental contamination identified, and the environmental response action selected can be found in the EPA Action Memorandum for the Site dated Sept. 2, 1997. Copies of documents containing information about the site are publicly available for viewing and copying locally at EPA's Community Outreach Office located at 3221 Press Street, New Orleans, La. 70126 and at the following repositories:

Louisiana Department of Environmental Quality      and  
7290 Bluebonnet Blvd.  
Baton Rouge, LA 70810

U.S. EPA  
1445 Ross Ave.  
Dallas, TX 75202

EPA has consulted with the Agency for Toxic Substances and Disease Registry (ATSDR), from the inception of this project to ensure that public health was protected during the implementation of this action and after its conclusion. We are pleased to report that ATSDR concurs with the response action that has been implemented and finds it sufficient to protect public health and the environment.

Should you have any remaining questions or concerns on this effort, please contact Mrs. Janetta Coats, the Community Involvement Coordinator at EPA's Toll-Free number at 1-800-533-3508.

Respectfully,

Ragan Broyles, Acting Chief  
Louisiana/New Mexico Branch

Encl.

T-10

## ATTACHMENT I

### CERTIFICATE OF COMPLETION

Completion of Environmental Response Action  
Agriculture Street Landfill Superfund Site  
New Orleans, La.

All cleanup actions and other response measures identified in the Action Memorandum of September 2, 1997, to be conducted on Operable Unit No. 2 of the Agriculture Street Landfill Site have been successfully implemented on the property listed above. The response measures have been completed in accordance with the Action Memorandum, and the Statement of Work, Design documents, and workplans, formulated to implement the Action Memorandum. The constructed action is operational and performing according to engineering design specifications. Operation and maintenance activities, including maintenance of the cap and vegetative cover, should be continued by the property owner.

Signed this \_\_\_ day of \_\_\_\_\_, 1999.

Lon Biasco  
EPA On-Scene Coordinator

## ATTACHMENT 2

### POST-REMOVAL MAINTENANCE

Post-closure care of the clean soil cap and vegetative cover consists of routine activities to maintain the integrity of the soil cap and vegetation on your property. Surface maintenance includes simple measures such as filling in holes above the geotextile barrier with clean soil and continued cultivation of the grass, shrubbery, trees, and other landscape features to assure a healthy vegetative cover over the clean fill.

If excavation below the geotextile fabric is required, the procedures for excavation and restoration outlined in the "Technical Abstract Utilities" paper dated July 1998 (available in the EPA Outreach Office), should be followed. In general:

- 1) Clean soils excavated within the top two feet of the excavation (above the geotextile) may be set aside and used as backfill in the same area.
- 2) The geotextile is to be cut to provide access below the barrier.
- 3) Soil excavated from below the barrier is considered to be contaminated landfill material and should be placed on a plastic sheet (away from the clean soil), to avoid contact with the surface soil. Also, proper personal protective equipment (i.e. coveralls, gloves, etc.) may be required to accomplish the work.
- 4) After completing the work, the excavated soil (from below the barrier) may be placed back into the excavation below the barrier as backfill.
- 5) After completion of the backfill below the matted area, the geotextile and marker are to be restored, and the excavation equipment cleaned.
- 6) The soils excavated from the top two feet (or clean fill from another source) can be used as backfill above the geotextile barrier. The area should be re-vegetated and maintained, to off-set the erosion of clean backfill.



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 6  
1445 ROSS AVENUE, SUITE 1200  
DALLAS, TX 75202-2733**

March 22, 2000

Property Owner Name  
Property Owner Address  
Property Owner City, State zip

Re: Agriculture Street Landfill Superfund Site - Supplemental Information

Dear Property Owner

The U.S. Environmental Protection Agency (EPA) recently sent a letter to owners of properties where the Non-Time Critical Soil Removal Action was conducted at the Agriculture Street Landfill Superfund Site ("Site"). That letter also provided a "Certificate of Completion" and instructions on steps that should be taken to maintain the integrity of the permeable soil barrier.

In a recent meeting concerning a number of environmental issues facing the city of New Orleans, Mayor Marc Morial raised some concerns related to this Site. The intent of this letter, in response to the Mayor's request, is to provide supplemental information on the importance of the Certificate of Completion, the potential impact a natural disaster may have on your property, and the status of plans to review the soil removal action.

For all owners of property where the response action was taken, the Certificate of Completion is a legal document certifying that EPA completed an environmental response action on your property. It verifies that the potential threat to human health presented by hazardous substances in the landfill identified through EPA procedures has been abated by the response action. It contains the instructions for maintaining the permeable barrier installed on your property. It also re-states the finding of the Agency for Toxic Substances and Disease Registry (ATSDR) that the response action is sufficient to protect public health and the environment. It is important that you keep the Certificate of Completion with other important documents involving your property. Many states, including Louisiana, have laws requiring sellers of property to notify buyers of environmental contamination prior to sale or other transfer. The Certificate of Completion may be useful to you in fulfilling such requirements if you should sell your property in the future.

In addition to advising all owners of property where the response action was taken about

T-13

proper maintenance procedures. EPA coordinated with the utility companies serving your area. The EPA developed Technical Abstract papers providing instructions for utility repair excavations which will ensure the continued integrity of the permeable barrier on those properties where it was installed. Copies of the Technical Abstracts were provided to all of the utility companies. The EPA also conducted a field demonstration of excavation and backfill procedures for utility companies at the Site on December 1, 1999.

The second item of concern was the effectiveness of the environmental response action in the wake of a natural disaster, an issue which has previously been addressed in EPA investigations and in information bulletins to the community. The contaminants of concern at this site (primarily lead, but also arsenic and polynuclear aromatic hydrocarbons) do not readily dissolve in water, but adhere to soil particles. During the non-time critical removal action at this site, a multi-layer barrier was constructed over the landfill contaminants. In the event of a flood, the barrier is expected to remain in place and the contaminants of concern now found in the subsurface soil below the barrier layers of geotextile, clean soil, and vegetation are expected to remain in the subsurface. For those property owners who elected not to participate in the response action, maintaining the surface vegetation will minimize the potential exposure to contaminants in the subsurface soils and will prevent soil erosion.

The environmental response action has now been completed on all those properties for which EPA was granted access. This includes Operable Units No. 1 and 3, and most of the area within Operable Unit No. 2. The EPA is currently conducting a review of the response action to determine if further response is appropriate. Once a determination is made, we will consider removing the undeveloped property, the community center, and the residential properties from the National Priorities List. Because hazardous substances will remain at the site, EPA will periodically review the action to assure that human health and the environment are being protected. The EPA will continue to keep the community informed of any new developments as they occur.

Should you have any additional questions or concerns associated with this project, please contact Mrs. Janetta Coats, the Community Involvement Coordinator at EPA's Toll-Free number at 1-800-533-3508.

Sincerely yours,

Gregg A. Cooke  
Regional Administrator

cc: Honorable Marc Morial  
Mayor of New Orleans

T-14



## **Attachment 7**

### **Conveyance Notices**

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**RECEIPT FOR FILING**  
**Stephen P. Bruno**  
**Custodian of Notarial Records**  
**for the Parish of Orleans, State of Louisiana**

1340 POYDRAS STREET, SUITE 500  
NEW ORLEANS, LOUISIANA 70112  
TELEPHONE: (504) 568-8577

Filed by: LA Dept Environmental Quality

Notary Public who passed act: \_\_\_\_\_

Instrument filed: \_\_\_\_\_

RECEIVED  
2006-53714 E 18  
PARISH OF ORLEANS

**Registered in Conveyance Office 592-9170**

**Recorded in the Mortgage Office 592-9176**

Instrument # 335416

Instrument # \_\_\_\_\_

Book \_\_\_\_\_, Folio \_\_\_\_\_

Book \_\_\_\_\_, Folio \_\_\_\_\_

New Orleans, Louisiana

New Orleans, Louisiana

Date: 12/18/04

Date: \_\_\_\_\_

Time: \_\_\_\_\_

CONVEYANCE NOTIFICATION

2006 - 53714 18

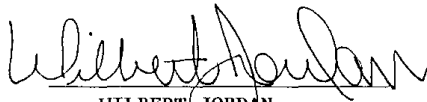
PARISH OF ORLEANS

The Louisiana Department of Environmental Quality (LDEQ) hereby notifies the public that the following described property located on the Agriculture Street Landfill Superfund Site, Louisiana Department of Environmental Quality (LDEQ) Agency Interest Number 84977, may contain contaminant levels present that are unacceptable for non-industrial use of the property as described in the Louisiana Department of Environmental Quality's (LDEQ) Risk Evaluation/Corrective Action Program (RECAP), Section 2.9.

This property, located in the Gordon Plaza Subdivision, was not included in the US Environmental Protection Agency (EPA) remediation of the Agriculture Street Landfill Superfund Site. However, according to the EPA Record of Decision document, grid surface soil samples located generally on the developed portion of the site and surface soil samples collected at the 33 remedial investigation study group homes showed lead levels over most of the Gordon Plaza Subdivision ranged from 100 to 1,000 parts per million in surface soils.

Property Description:

(See attached)



WILBERT JORDAN

Signature of Person Filing Parish Record

Typed Name and Title of Person Filing Parish Record

Dec. 1, 2006

Date

(A true copy of the document certified by the parish clerk of court must be sent to the Remediation Services Division, Post Office Box 4314, Baton Rouge, Louisiana 70821-4314.)

STAMPED COPY \*\*\* STAMPED COPY  
NA #: 06-53714 INST. #: 335416  
TYPE: MISCELLANEOUS  
AMT: \$36.00  
DATE: 12/18/2006 12:05:45 PM  
Hon. Gasper J. Schiro  
Registrar of Conveyances

Date 6/11/90 RUC

CIVIL DISTRICT COURT FOR THE PARISH OF ORLEANS

STATE OF LOUISIANA

NO: 89-4264

DIVISION "D"

DOCKET: 5

SUCCESSION OF PRESTON WILLIAMS

FILED:

DEPUTY CLERK

JUDGMENT

This matter came on for hearing on January 5, 1990.

PRESENT James A. Gray, II, Attorney for Executrix,  
[REDACTED]

The creditors having been duly served failed to appear and object; the law and facts being in favor of mover,

IT IS ORDERED, ADJUDGED AND DECREED that [REDACTED] be sent into possession of the house located at 2926 Benefit Street, New Orleans, Louisiana and described as follows:

A CERTAIN LOT OF GROUND, together with all the buildings and improvements thereon, and all the rights, ways, privileges, servitudes, appurtenances and advantages thereunto belonging or in anywise appertaining, situated in the Third District of the City of New Orleans, in that part known as Gordon Plaza Subdivision in Square No. 5-A, bounded by Gordon Plaza Drive, Benefit, Press and Gordon Plaza Drive, designated as Lot No. 27 on a survey made by J. J. Krebs & Sons, Inc., Surveyors, dated April 9, 1980 a copy of which was submitted to the City Planning and Zoning Commission for the resubdivision of Square 5 into the Gordon Plaza Subdivision; and, according to said survey, Lot 27 commences at a distance of 120.70 feet from the corner of Press Street and Benefit Street and measures thence 60 feet front on Benefit Street, same width in the rear, by a depth of 100 feet, between equal and parallel lines.

The buildings and improvements thereon bear the Municipal No. 2926 Benefit Street.

Being part of the same property acquired by Gordon Plaza Single Family Development, Inc. from Desire Community Housing Corporation by act before James A. Gray, II, Notary Public, on the 6th day of November, 1980, registered in COB 773 folio 90 of the records of the Parish of Orleans.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that as executrix, [REDACTED] continues the administration of the succession with regard to the remainder of the property in it.

JUDGMENT READ, RENDERED AND SIGNED IN OPEN COURT, this 10 day of January, 1990.

(Sgd) Louis A. DiRosa

JUDGE

RECEIVED  
JAN 17 1990  
ENTERED ON  
MINUTES

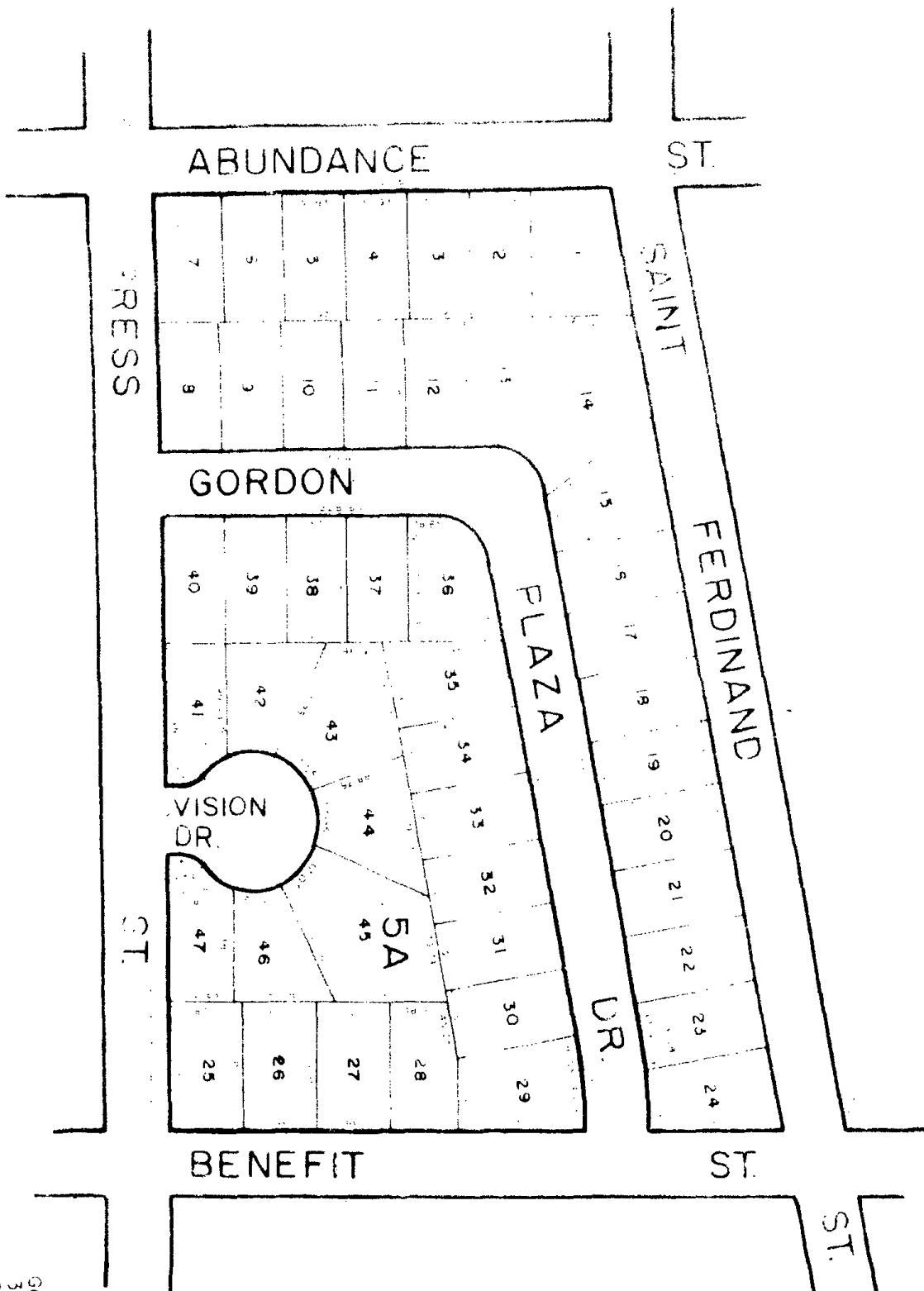
A TRUE COPY

DEPUTY CLERK, CIVIL DISTRICT COURT

FILED  
JAN 12 4 53 PM '90  
CIVIL DISTRICT COURT

A TRUE COPY

DEPUTY CLERK, CIVIL DISTRICT COURT  
PARISH OF ORLEANS  
STATE OF LA.



GOR  
3M-  
SCA



**RECEIPT FOR FILING**  
**Stephen P. Bruno**  
**Custodian of Notarial Records**  
**for the Parish of Orleans, State of Louisiana**

1340 POYDRAS STREET, SUITE 500  
NEW ORLEANS, LOUISIANA 70112  
TELEPHONE: (504) 568-8577

Filed by: LA Dept Environmental Quality

Notary Public who passed act: \_\_\_\_\_

Instrument filed: \_\_\_\_\_

2006-53716 2 18  
PARISH OF ORLEANS

Registered in Conveyance Office 592-9170

Recorded in the Mortgage Office 592-9176

Instrument # 335417

Instrument # \_\_\_\_\_

Book \_\_\_\_\_, Folio \_\_\_\_\_

Book \_\_\_\_\_, Folio \_\_\_\_\_

New Orleans, Louisiana

New Orleans, Louisiana

Date: 12/18/06 TH

Date: \_\_\_\_\_

Time: \_\_\_\_\_

CONVEYANCE NOTIFICATION

2006 - 53716 & 18

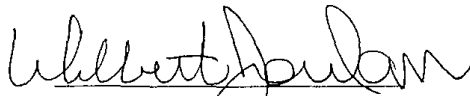
PARISH OF ORLEANS

The Louisiana Department of Environmental Quality (LDEQ) hereby notifies the public that the following described property located on the Agriculture Street Landfill Superfund Site, Louisiana Department of Environmental Quality (LDEQ) Agency Interest Number 84977, may contain contaminant levels present that are unacceptable for non-industrial use of the property as described in the Louisiana Department of Environmental Quality's (LDEQ) Risk Evaluation/Corrective Action Program (RECAP), Section 2.9.

This property, located in the Gordon Plaza Subdivision, was not included in the US Environmental Protection Agency (EPA) remediation of the Agriculture Street Landfill Superfund Site. However, according to the EPA Record of Decision document, grid surface soil samples located generally on the developed portion of the site and surface soil samples collected at the 33 remedial investigation study group homes showed lead levels over most of the Gordon Plaza Subdivision ranged from 100 to 1,000 parts per million in surface soils.

Property Description:

(See attached)



**WILBERT JORDAN**  
Signature of Person Filing Parish Record

\_\_\_\_\_  
Typed Name and Title of Person Filing Parish Record

Dec. 1, 2006

Date

(A true copy of the document certified by the parish clerk of court must be sent to the Remediation Services Division, Post Office Box 4314, Baton Rouge, Louisiana 70821-4314.)

STAMPED COPY \*\*\* STAMPED COPY  
NA #: 06-53714 INST. #: 335416  
TYPE: MISCELLANEOUS  
AMT: \$36.00  
DATE: 12/18/2006 12:05:45 PM  
Hon. Gasper J. Schiro  
Registrar of Conveyances

10/15/99  
VERIFIED

COURT REPORTER  
GARY R. JONES

CIVIL DISTRICT COURT FOR THE PARISH OF ORLEANS

STATE OF LOUISIANA

No: 93-4578

DRS-1

[REDACTED]

VERSUS

[REDACTED]

93-4578  
DRS-1  
FILED

Filed: \_\_\_\_\_

Deputy Clerk

Community Property Judgment

This matter came before the court on September 22, 1999.

Present: [REDACTED] - petitioner  
Pamela Davis- Attorney for petitioner

The defendant was personally served on July 23<sup>rd</sup> 1999 and failed to appear.

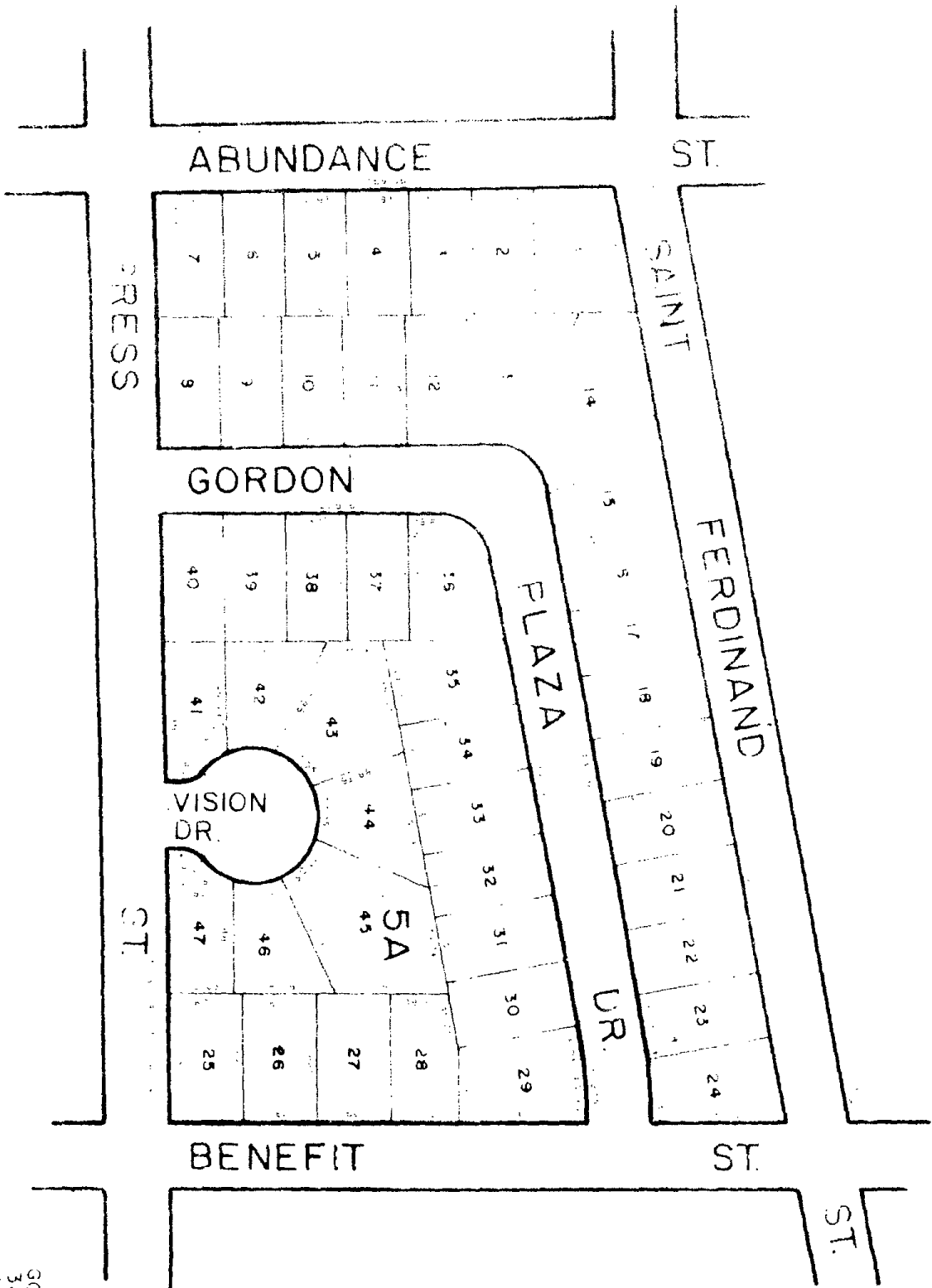
The parties were divorced by this court on September 24<sup>th</sup>, 1993.

After hearing the evidence and the facts the Judge entered the following judgment:

**IT IS ORDERED** that [REDACTED] receive the following community property, with the exclusive right of use, management and authority to alienate, lease, sell or encumber without the consent or signature of the defendant.

1 That piece of ground, together with all the buildings and improvements thereon and all of the rights, ways, privileges, servitudes, advantages and appurtenances belonging or appertaining to the ground, situated in the State of Louisiana, Parish of Orleans, in the Third District of the City of New Orleans, in Square No. 5-A, Gordon Plaza Subdivision, bounded by St. Ferdinand, Benefit, Press and Abundance Streets and Gordon Plaza Drive, designated as lot No. 24, forms the corner of Gordon Plaza Drive and Benefit St., measures thence 49.45 feet fronts on Gordon Plaza Drive, a width in the rear of 67.25 feet, by a depth and front on Benefit St. of 106.28 feet and a depth of 100.06 feet on the opposite sideline. All as more fully shown on survey of J.J. Krebs & sons, Inc. CE&S, dated April 9, 1980. Improvements bear the No. 80 Gordon Plaza Drive. Being the same property acquired by vendor by an act dated November 2, 1990, registered in COB Instrument No. 32891.

2. That piece of ground, together with all the buildings and improvements thereon and all of the rights, ways, privileges, servitudes, advantages and appurtenances belonging or appertaining to the ground, situated in the State of Louisiana, Parish of Orleans, in the Third District of the City of New Orleans, in Square No. 1029, bounded by Annette, N. Johnson, St. Anthony and N. Galvez Streets, which said lot of ground is described on a plan of subdivision by Ernest F. Kelly, dated \_\_\_\_\_.



GOR  
3M-  
SCA  
x 1

**RECEIPT FOR FILING**  
**Stephen P. Bruno**  
**Custodian of Notarial Records**  
**for the Parish of Orleans, State of Louisiana**

1340 POYDRAS STREET, SUITE 500  
NEW ORLEANS, LOUISIANA 70112  
TELEPHONE: (504) 568-8577

Filed by: LA Dept Environmental Quality

Notary Public who passed act: \_\_\_\_\_

Instrument filed: \_\_\_\_\_

\_\_\_\_\_

Registered in Conveyance Office 592-9170

Recorded in the Mortgage Office 592-9176

Instrument # 335419

Book \_\_\_\_\_, Folio \_\_\_\_\_

New Orleans, Louisiana

Date: 12/18/06 *[Signature]*

Instrument # \_\_\_\_\_

Book \_\_\_\_\_, Folio \_\_\_\_\_

New Orleans, Louisiana

Date: \_\_\_\_\_

Time: \_\_\_\_\_

2006-53717818  
PARISH OF ORLEANS

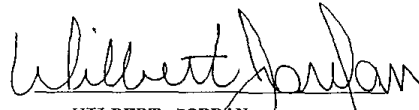
## CONVEYANCE NOTIFICATION

The Louisiana Department of Environmental Quality (LDEQ) hereby notifies the public that the following described property located on the Agriculture Street Landfill Superfund Site, Louisiana Department of Environmental Quality (LDEQ) Agency Interest Number 84977, may contain contaminant levels present that are unacceptable for non-industrial use of the property as described in the Louisiana Department of Environmental Quality's (LDEQ) Risk Evaluation/Corrective Action Program (RECAP), Section 2.9.

This property, located in the Gordon Plaza Subdivision, was not included in the US Environmental Protection Agency (EPA) remediation of the Agriculture Street Landfill Superfund Site. However, according to the EPA Record of Decision document, grid surface soil samples located generally on the developed portion of the site and surface soil samples collected at the 33 remedial investigation study group homes showed lead levels over most of the Gordon Plaza Subdivision ranged from 100 to 1,000 parts per million in surface soils.

Property Description:

(See attached)

  
WILBERT JORDAN  
Signature of Person Filing Parish Record

2006-53717 B 18  
PARISH OF ORLEANS

Typed Name and Title of Person Filing Parish Record

Dec. 1, 2006

Date

(A true copy of the document certified by the parish clerk of court must be sent to the Remediation Services Division, Post Office Box 4314, Baton Rouge, Louisiana 70821-4314.)



STAMPED COPY \*\*\* STAMPED COPY  
NA #: 06-53714 INST. #: 335416  
TYPE: MISCELLANEOUS  
AMT: \$36.00  
DATE: 12/18/2006 12:05:45 PM  
Hon. Gasper J. Schiro  
Registrar of Conveyances

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**BEST COPY**

OF PROPERTY:

AIN LOT OR PARCEL OF GROUND, together with all the buildings, improvements thereon, and all the rights, ways, privileges, servitudes, appurtenances and advantages thereunto belonging or in anywise pertaining, situated in the Third Municipal District of the City of New Orleans, State of Louisiana, in that part thereof known as GORDON PLAZA SUBDIVISION, PHASE 2, being a resubdivision of portions of former Squares 5, 6 and 8, and a portion of ST. FERDINAND STREET, and, according to a plan of resubdivision of J. J. Krebs & Sons, Inc., Engineers, Planners & Surveyors, dated April 10, 1980, revised March 26, 1981, approved by the New Orleans City Planning Commission on March 27, 1981, under Docket No. 27/81, in accordance with the overall plan Subdivision Docket No. 35/76, registered in C.O.B. 771, folio 408, the said lot or parcel of ground is designated as follows:

LOT 12 of SQUARE 8, which said Square is bounded by PRESS, ABUNDANCE, ST. FERDINAND and INDUSTRY STREETS, and MARCUS CHRISTIAN CIRCLE and AGRICULTURE PLACE, commences at a distance of one hundred sixty-eight and thirty hundredths feet (168.30') from the southerly intersection of PRESS STREET and AGRICULTURE PLACE, and measures thence forty-five and fifty-one hundredths feet (45.51') front on AGRICULTURE PLACE along an arc of a curve to the right having a radius of fifty feet (50'), a depth of sixty-five and thirty-two hundredths feet (65.32') on the side line adjoining Lot 13 and closest to ABUNDANCE STREET, a first depth of one hundred twenty feet (120') on the opposite side line adjoining Lot 11 to a point, thence a second depth of five and sixty-one hundredths feet (5.61') along the line adjoining Lot 6 to the rear line, with a width in the rear of one hundred twenty-two and eighty-six hundredths feet (122.86'), all as is more fully shown on a survey of Robert E. Oswald, Inc., Registered Land Surveyor, dated June 29, 1981.

Improvements thereon bear the Municipal No. 4 AGRICULTURE PLACE.

Being a portion of the same property acquired by GORDON PLAZA SINGLE-FAMILY DEVELOPMENT, INC., from DESIRE COMMUNITY HOUSING CORPORATION, by act passed before James A. Gray, II, Notary Public, dated November 6, 1980, registered in C.O.B. 773, folio 90.

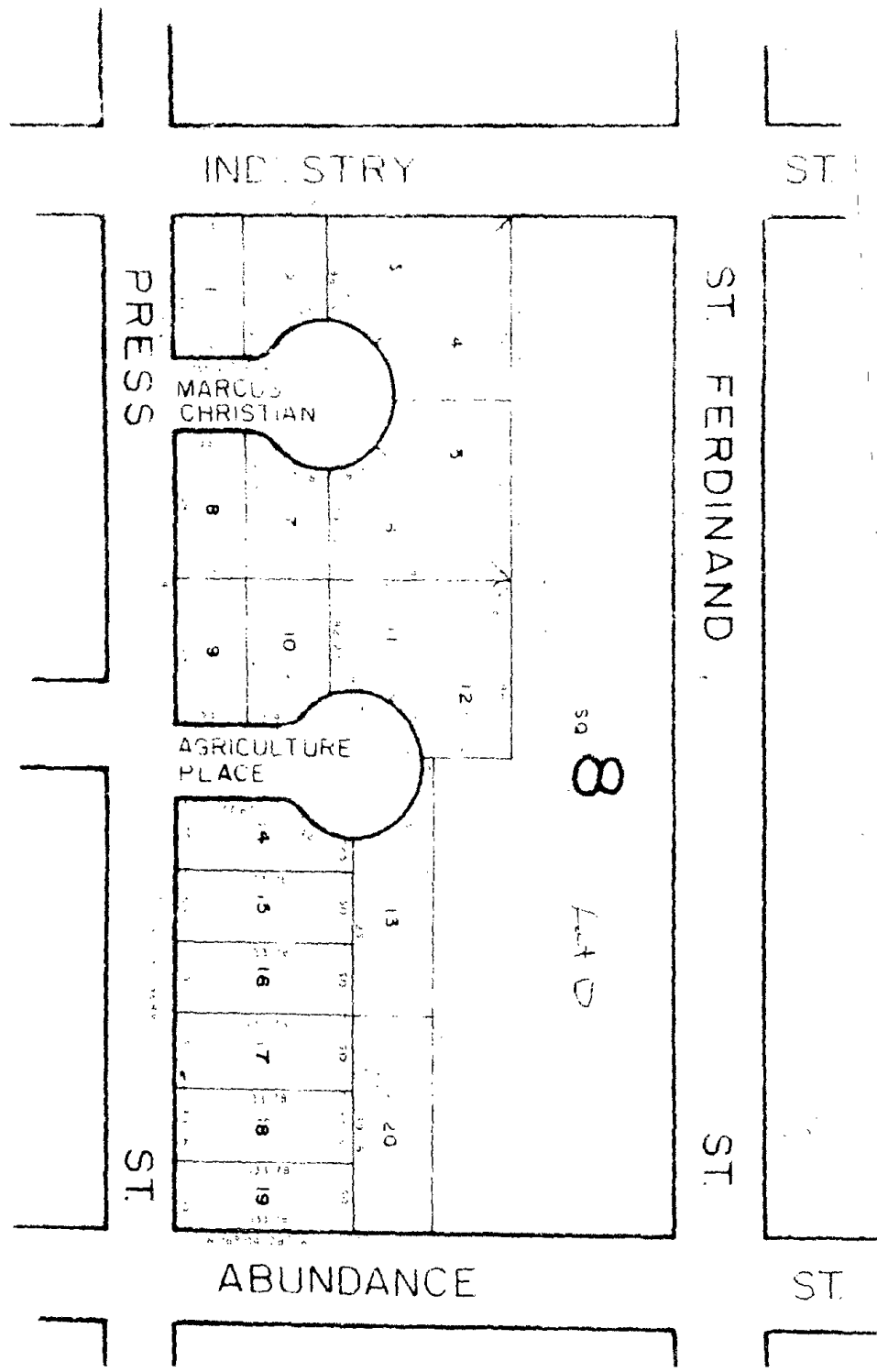
11 1981  
6 3 3 0

This sale is made and accepted subject to any and all applicable restrictions, servitudes, rights-of-way and outstanding mineral interests contained in the chain of title, without in any way renewing the same or acknowledging the validity thereof, and, in particular, the following:

- (A) Restrictive Covenants created by GORDON PLAZA SINGLE FAMILY DEVELOPMENT, INC., by act passed before James A. Gray, II, Notary Public, dated April 27, 1981, registered in C.O.B. 773-I, folios 199-201.
- (B) Five (5') foot servitude across that portion of the property which adjoins lot 6 in favor of South Central Bell Telephone Company as shown on the plan of subdivision.

continued from page one

he was divorced in Civil District Court in proceedings #528225 on October 2, 1973 and then to [REDACTED] with whom he is presently living and residing. Their mailing address is 4 Agriculture Place, New Orleans, Louisiana 70126.



GORDON :  
 1M-9W  
 SCALE

**RECEIPT FOR FILING**  
**Stephen P. Bruno**  
**Custodian of Notarial Records**  
**for the Parish of Orleans, State of Louisiana**

1340 POYDRAS STREET, SUITE 500  
NEW ORLEANS, LOUISIANA 70112  
TELEPHONE: (504) 568-8577

Filed by: LA Dept Environmental Quality

Notary Public who passed act: \_\_\_\_\_

Instrument filed: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

RECEIVED  
2006-53715 2 18  
PARISH OF ORLEANS

**Registered in Conveyance Office 592-9170**

**Recorded in the Mortgage Office 592-9176**

Instrument # 335418

Book \_\_\_\_\_, Folio \_\_\_\_\_

New Orleans, Louisiana  
Date: 12/18/04 *SB*

Instrument # \_\_\_\_\_

Book \_\_\_\_\_, Folio \_\_\_\_\_

New Orleans, Louisiana

Date: \_\_\_\_\_

Time: \_\_\_\_\_

CO-CUSTODIAN OF  
RECORDS

CONVEYANCE NOTIFICATION

2006-53715 #18

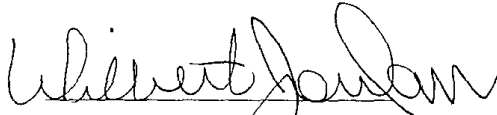
PARISH OF ORLEANS

The Louisiana Department of Environmental Quality (LDEQ) hereby notifies the public that the following described property located on the Agriculture Street Landfill Superfund Site, Louisiana Department of Environmental Quality (LDEQ) Agency Interest Number 84977, may contain contaminant levels present that are unacceptable for non-industrial use of the property as described in the Louisiana Department of Environmental Quality's (LDEQ) Risk Evaluation/Corrective Action Program (RECAP), Section 2.9.

This property, located in the Gordon Plaza Subdivision, was not included in the US Environmental Protection Agency (EPA) remediation of the Agriculture Street Landfill Superfund Site. However, according to the EPA Record of Decision document, grid surface soil samples located generally on the developed portion of the site and surface soil samples collected at the 33 remedial investigation study group homes showed lead levels over most of the Gordon Plaza Subdivision ranged from 100 to 1,000 parts per million in surface soils.

Property Description:

(See attached)



**WILBERT JORDAN**  
Signature of Person Filing Parish Record

Typed Name and Title of Person Filing Parish Record

Dec. 1, 2006

Date

(A true copy of the document certified by the parish clerk of court must be sent to the Remediation Services Division, Post Office Box 4314, Baton Rouge, Louisiana 70821-4314.)

STAMPED COPY \*\*\* STAMPED COPY  
NA #: 06-53714 INST. #: 335416  
TYPE: MISCELLANEOUS  
AMT: \$36.00  
DATE: 12/18/2006 12:05:45 PM  
Hon. Gasper J. Schiro  
Registrar of Conveyances



EMPTION OF TAX SALE

UNITED STATES OF AMERICA

/:

STATE OF LOUISIANA

TO:

wife of/and

PARISH OF ORLEANS

BE IT KNOWN, that on this 29TH day of OCTOBER, 2003;

BEFORE ME, a Notary Public, duly commissioned and qualified in and for the aforesaid State and County, and in the presence of the undersigned witnesses:

PERSONALLY CAME AND APPEARED:

[REDACTED], represented herein by her attorney Tyrone Watkins, hereinafter referred to as "APPEARER", who declared that by Act of Sale dated June 24, 1996, and recorded in the office of the Recorder of Conveyances Clerk of Court for the Parish of Orleans, State of Louisiana, ~~Sub B~~ 131263, Appearer purchased at tax sale for Orleans Parish taxes for \$67.72 the property assessed in the name of [REDACTED] wife of/and [REDACTED] which property is described as follows:

A CERTAIN LOT OF GROUND, together with all the buildings and improvements thereon, and all the rights, ways, privileges, servitudes, appurtenances and advantages thereunto belonging or in anywise appertaining, situated in the THIRD DISTRICT of the City of New Orleans, in that part known as GORDON PLAZA SUBDIVISION in SQUARE NO. 5-A, bounded by Gordon Plaza Drive, Benefit, Press Streets and Gordon Plaza Drive, designated as LOT NO. 25 on a survey made by J.J. Krebs and Sons, Inc., Surveyors, dated April 9, 1980, a copy of which was submitted to the City Planning and Zoning Commission for the resubdivision of Square 5 into the Gordon Plaza Subdivision; and, according to said survey, LOT 25 sets on the corner of Benefit and Press Streets, and measures thence 60.70 feet front of Benefit Street, with a width of 60 feet in the rear, by a depth of 100 feet, between equal and parallel lines.

The buildings and improvements thereon bear the Municipal Number 2938 Benefit Street.

APPEARER FURTHER DECLARED that the purchase price of the said property, together with interest and cost, amounts to \$ 24,720.00, which amount has been paid to Appearer, who hereby acknowledges receipt thereof.

APPEARER FURTHER ACKNOWLEDGED that the above described property has been redeemed in accordance with the law to [REDACTED] wife of/and [REDACTED]

THUS DONE AND PASSED at New Orleans on the day, month and year first written in the presence of the undersigned witnesses who hereunto sign their names together with the Appearer and me, Notary, after reading of the whole.

WITNESSES:

Angela Comanche  
Michelle Comanche

BY:

Tyrone Watkins  
Attorney Tyrone Watkins

[Signature]  
NOTARY PUBLIC



COR  
3M.  
SCA  
1

**RECEIPT FOR FILING**  
**Stephen P. Bruno**  
**Custodian of Notarial Records**  
**for the Parish of Orleans, State of Louisiana**

1340 POYDRAS STREET, SUITE 500  
NEW ORLEANS, LOUISIANA 70112  
TELEPHONE: (504) 568-8577

Filed by: LA Dept Engr Quality

Notary Public who passed act: \_\_\_\_\_

Instrument filed: \_\_\_\_\_

\_\_\_\_\_

Registered in Conveyance Office 592-9170

Recorded in the Mortgage Office 592-9176

Instrument # 335415

Book \_\_\_\_\_, Folio \_\_\_\_\_

New Orleans, Louisiana

Date: 12/18/04 SP

Instrument # \_\_\_\_\_

Book \_\_\_\_\_, Folio \_\_\_\_\_

New Orleans, Louisiana

Date: \_\_\_\_\_

Time: \_\_\_\_\_

RECEIVED  
2005-53713  
PARISH OF ORLEANS

2006-53713 218

CONVEYANCE NOTIFICATION

PARISH OF ORLEANS

The Louisiana Department of Environmental Quality (LDEQ) hereby notifies the public that the following described property located on the Agriculture Street Landfill Superfund Site, Louisiana Department of Environmental Quality (LDEQ) Agency Interest Number 84977, may contain contaminant levels present that are unacceptable for non-industrial use of the property as described in the Louisiana Department of Environmental Quality's (LDEQ) Risk Evaluation/Corrective Action Program (RECAP), Section 2.9.

This property, located in the Gordon Plaza Subdivision, was not included in the US Environmental Protection Agency (EPA) remediation of the Agriculture Street Landfill Superfund Site. However, according to the EPA Record of Decision document, grid surface soil samples located generally on the developed portion of the site and surface soil samples collected at the 33 remedial investigation study group homes showed lead levels over most of the Gordon Plaza Subdivision ranged from 100 to 1,000 parts per million in surface soils.

Property Description:

(See attached)



**WILBERT JORDAN**  
Signature of Person Filing Parish Record

\_\_\_\_\_  
Typed Name and Title of Person Filing Parish Record

Dec. 1, 2006

Date

(A true copy of the document certified by the parish clerk of court must be sent to the Remediation Services Division, Post Office Box 4314, Baton Rouge, Louisiana 70821-4314.)

STAMPED COPY \*\*\* STAMPED COPY  
NA #: 06-53713 INST. #: 335415  
TYPE: MISCELLANEOUS  
AMT: \$36.00  
DATE: 12/18/2006 12:05:44 PM  
Hon. Gasper J. Schino  
Registrar of Conveyances

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BEST COPY

# STATE OF LOUISIANA-PARISH OF ORLEANS

## RECORDER OF MORTGAGES

Cents

Received Payment 19

I, F. J. Demarest, Jr., Recorder of Mortgages in and for the Parish and State aforesaid, hereby certify that, according to the records of my office there are no paving ordinances bearing against the following described property:

Name of Clerk

Words

Remarks:

CONCRETE PLAZA SINGLE-FAMILY DEVELOPMENT, INC.  
(Acq. 11/6/80, COB 773/90, run to date)  
PACIFIC COMMUNITY HOUSING CORPORATION  
(Acq. 4/16/74, COB 723/612, run to 11/17/80, COB 773/90)

FILED  
CUSTOMER  
NOTARIAL RECORDS  
PARISH OF ORLEANS  
JUN 17 1981  
428712

ALL CERTAIN LOT OR PARCEL OF CONCRETE PLAZA, together with all the buildings and improvements thereon, and all the rights, ways, privileges, servitudes, appurtenances and advantages thereto belonging or in anywise appertaining, situated in the third municipal district of the City of New Orleans, State of Louisiana, in that part thereof known as CONCRETE PLAZA SUBDIVISION, PHASE 2, being a resubdivision of portions of former Squares 5, 6 and 9, and a portion of 29. FIFTH STREET, and, according to a plan of resubdivision of J. J. Brels & Sons, Inc., Engineers, Planners & Surveyors, dated April 10, 1980, revised March 26, 1981, approved by the New Orleans City Planning Commission on March 27, 1981, under Tocket No. 27/81, in accordance with the overall plan subdivision Tocket No. 35/76, registered in C.C.R. 771, Folio 408, the said lot or parcel of ground is designated as follows:

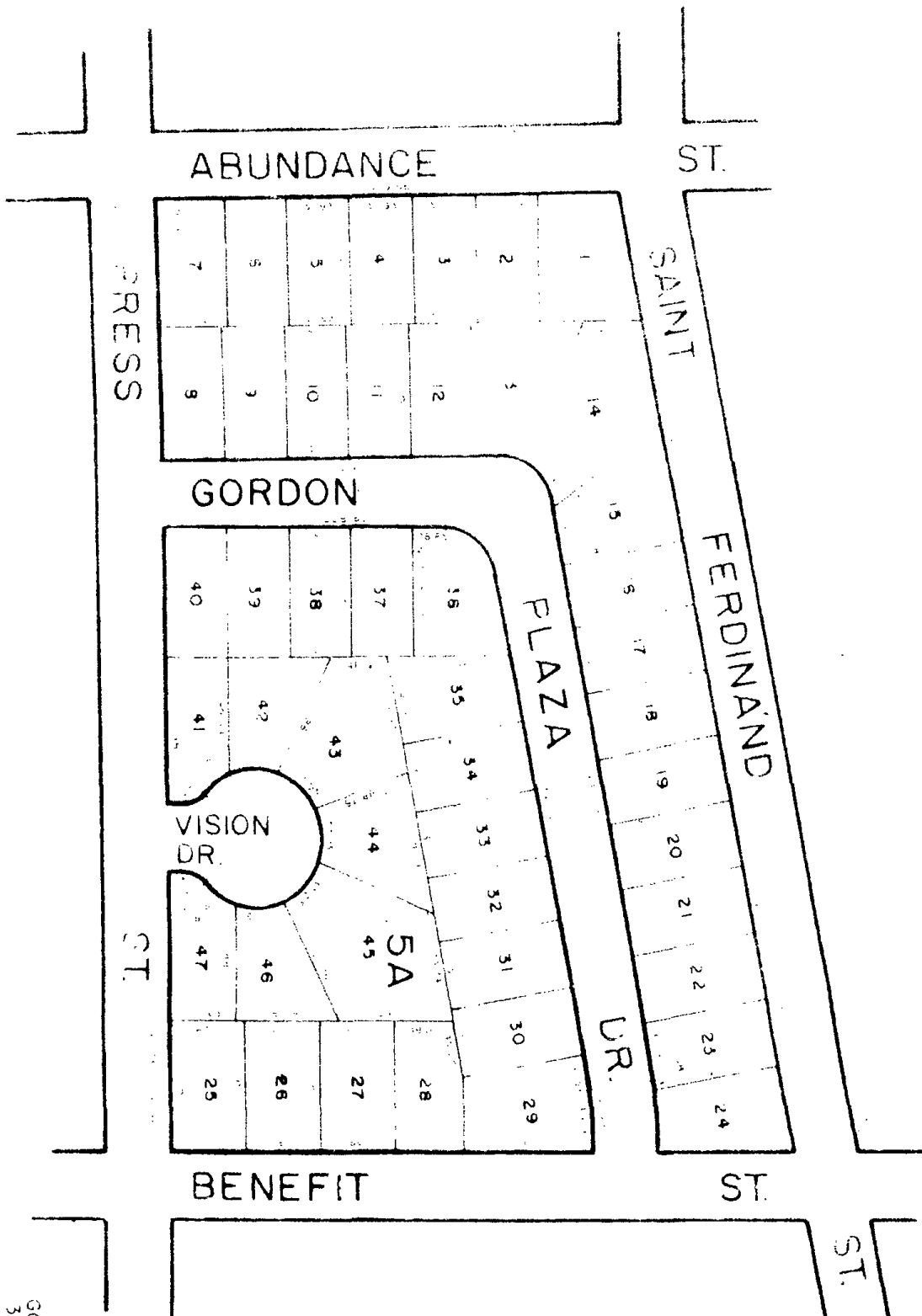
LOT 45 of SQUARE 5-A, which said square is bounded by 15th, 16th, ST. FERDINAND and ALCEGNE STREETS, and VISION DRIVE, commences at a distance of sixty-six and eight hundredths feet (66.68') from the northerly intersection of 15th STREET and VISION DRIVE, and measures thence thirty-seven and five hundredths feet (37.05') front on VISION DRIVE measured along an arc of curve to the left having a radius of fifty feet (50'), by a depth of the side line adjoining lot 46 of one hundred one and seventy-six hundredths feet (101.76') to a point, thence a first width in the rear of ninety-four and twenty hundredths feet (94.20'), measured along the line adjoining lots 27 and 28, thence a second width in the rear of seventy-nine and seventy-four hundredths feet (79.74'), measured along the line adjoining lots 30, 31 and 32, with a depth of one hundred eight and sixty-nine hundredths feet (108.69') on the opposite side line adjoining lot 44, all as is more fully shown on the survey of Robert L. Oswald, Inc., Registered Land Surveyor, dated June 29, 1981.

Improvements thereon bear the Municipal No. 5 VISION DRIVE.

being a portion of the same property acquired by CONCRETE PLAZA SINGLE-FAMILY DEVELOPMENT, INC., from PACIFIC COMMUNITY HOUSING CORPORATION, by Act passed before Carter A. Gray, II, Notary Public, dated November 6, 1980, registered in C.C.R. 773/90.

*gfm*





GOR  
3M-  
cc

**RECEIPT FOR FILING**  
**Stephen P. Bruno**  
**Custodian of Notarial Records**  
**for the Parish of Orleans, State of Louisiana**

1340 POYDRAS STREET, SUITE 500  
NEW ORLEANS, LOUISIANA 70112  
TELEPHONE: (504) 568-8577

Filed by: LA Dept Environmental Quality

Notary Public who passed act: \_\_\_\_\_

Instrument filed: \_\_\_\_\_

Registered in Conveyance Office 592-9170

Recorded in the Mortgage Office 592-9176

Instrument #

335414

Instrument # \_\_\_\_\_

Book \_\_\_\_\_, Folio \_\_\_\_\_

Book \_\_\_\_\_, Folio \_\_\_\_\_

New Orleans, Louisiana

New Orleans, Louisiana

Date: \_\_\_\_\_

Date: 12/18/04 [Signature]

Time: \_\_\_\_\_

2006-53712  
PARISH OF ORLEANS  
CUSTODIAN OF

## CONVEYANCE NOTIFICATION

The Louisiana Department of Environmental Quality (LDEQ) hereby notifies the public that the following described property located on the Agriculture Street Landfill Superfund Site, Louisiana Department of Environmental Quality (LDEQ) Agency Interest Number 84977, may contain contaminant levels present that are unacceptable for non-industrial use of the property as described in the Louisiana Department of Environmental Quality's (LDEQ) Risk Evaluation/Corrective Action Program (RECAP), Section 2.9.

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Property Description:

(See attached)

  
WILBERT JORDAN  
Signature of Person Filing Parish Record

2006-53712 B 18  
PARISH OF ORLEANS  
CLERK OF COURT

Typed Name and Title of Person Filing Parish Record

Dec. 1, 2006

Date

(A true copy of the document certified by the parish clerk of court must be sent to the Remediation Services Division, Post Office Box 4314, Baton Rouge, Louisiana 70821-4314.)

STAMPED COPY \*\*\* STAMPED COPY  
NA #: 06-53712 INST. #: 335414  
TYPE: MISCELLANEOUS  
AMT: \$36.00  
DATE: 12/18/2006 12:05:42 PM  
Hon. Gasper J. Schiro  
Registrar of Conveyances

ADDENDUM

FOR ANNEXATION TO AN ACT OF CREDIT SALE BY GORDON PLAZA SINGLE FAMILY DEVELOPMENT, INC., UNTO [REDACTED] wife of/and [REDACTED] PASSED BEFORE HARRY E. KUHNER, II, NOTARY PUBLIC, DATED September 21, 1981

DESCRIPTION OF PROPERTY:

ONE CERTAIN LOT OR PARCEL OF GROUND, together with all the buildings and improvements thereon, and all the rights, ways, privileges, servitudes, appurtenances and advantages thereunto belonging or in anywise appertaining, situated in the Third Municipal District of the City of New Orleans, State of Louisiana, in that part thereof known as GORDON PLAZA SUBDIVISION, PHASE 2, being a resubdivision of portions of former Squares 5, 6 and 8, and a portion of ST. FERDINAND STREET, and, according to a plan of resubdivision of J. J. Krebs & Sons, Inc., Engineers, Planners & Surveyors, dated April 10, 1980, revised March 26, 1981, approved by the New Orleans City Planning Commission on March 27, 1981, under Docket No. 27/81, in accordance with the overall plan Subdivision Docket No. 35/76, registered in C.O.B. 771, folio 408, the said lot or parcel of ground is designated as follows:

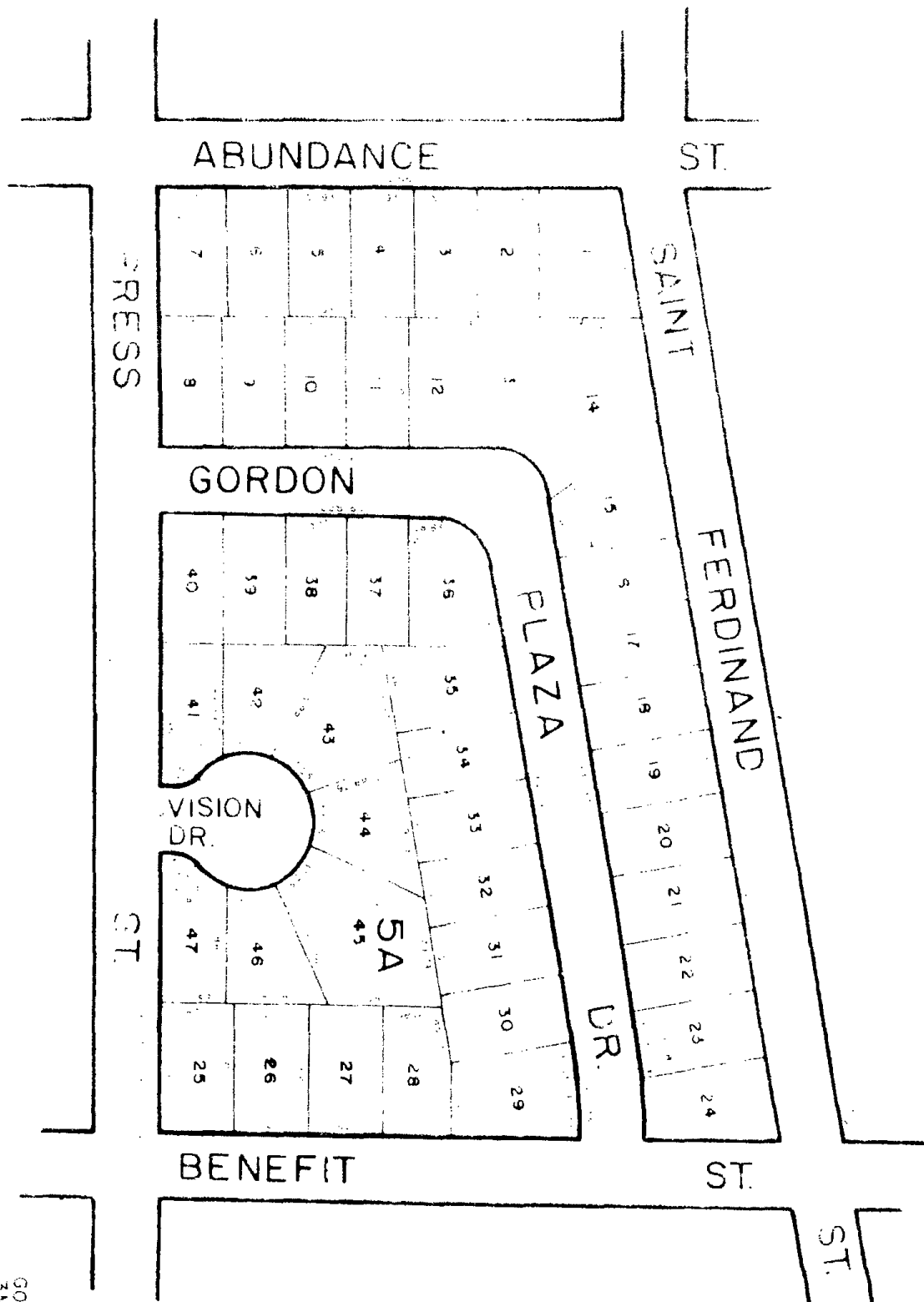
LOT 29 of SQUARE 5-A, which said Square is bounded by PRESS, BENEFIT, ST. FERDINAND and ABUNDANCE STREETS, VISION and GORDON PLAZA DRIVES, forms the corner of GORDON PLAZA DRIVE and BENEFIT STREET, and measures seventy-three and two hundredths feet (73.02') front on GORDON PLAZA DRIVE, a width on the rear line adjoining Lot 28 of fifty-five and forty hundredths feet (55.40'), by a depth and front on BENEFIT STREET of one hundred six and ninety-eight hundredths feet (106.98'), and a depth on the opposite side line adjoining Lot 30 of one hundred feet (100'), all as is more fully shown on a survey by Robert E. Oswald, Inc., R.L.S., dated March 18, 1981, revised July 22, 1981.

Improvements thereon bear the Municipal No. 75 GORDON PLAZA DRIVE.

Being a portion of the same property acquired by GORDON PLAZA SINGLE-FAMILY DEVELOPMENT, INC., from DESIRE COMMUNITY HOUSING CORPORATION, by act passed before James A. Gray, II, Notary Public, dated November 6, 1980, registered in C.O.B. 773, folio 90.

This sale is made and accepted subject to any and all applicable restrictions, servitudes, rights-of-way and outstanding mineral interests contained in the chain of title, without in any way renewing the same or acknowledging the validity thereof, and, in particular, the following:

- (A) Restrictive Covenants created by GORDON PLAZA SINGLE FAMILY DEVELOPMENT, INC., by act passed before James A. Gray, II, Notary Public, dated April 27, 1981, registered in C.O.B. 773-I, folios 199-201.
- (B) Five (5') foot servitude over the rear of the property in favor of SOUTH CENTRAL BELL TELEPHONE COMPANY as shown on the plan of subdivision and the survey annexed hereto.



GOR  
3M-  
SCA

**RECEIPT FOR FILING**  
**Stephen P. Bruno**  
**Custodian of Notarial Records**  
**for the Parish of Orleans, State of Louisiana**

1340 POYDRAS STREET, SUITE 500  
NEW ORLEANS, LOUISIANA 70112  
TELEPHONE: (504) 568-8577

Filed by: LA Dept. Environmental Quality

Notary Public who passed act: \_\_\_\_\_

Instrument filed: \_\_\_\_\_

2006-53711 818  
PARISH OF ORLEANS

Registered in Conveyance Office 592-9170

Recorded in the Mortgage Office 592-9176

Instrument # 335 413

Instrument # \_\_\_\_\_

Book \_\_\_\_\_, Folio \_\_\_\_\_

Book \_\_\_\_\_, Folio \_\_\_\_\_

New Orleans, Louisiana

New Orleans, Louisiana

Date: 12/18/06

Date: \_\_\_\_\_

Time: \_\_\_\_\_

7- CUSTODIAN OF  
7- PARISH RECORD

2006-53711 8 18

# CONVEYANCE NOTIFICATION

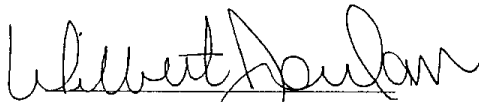
PARISH OF ORLEANS

The Louisiana Department of Environmental Quality (LDEQ) hereby notifies the public that the following described property located on the Agriculture Street Landfill Superfund Site, Louisiana Department of Environmental Quality (LDEQ) Agency Interest Number 84977, may contain contaminant levels present that are unacceptable for non-industrial use of the property as described in the Louisiana Department of Environmental Quality's (LDEQ) Risk Evaluation/Corrective Action Program (RECAP), Section 2.9.

This property, located in the Gordon Plaza Subdivision, was not included in the US Environmental Protection Agency (EPA) remediation of the Agriculture Street Landfill Superfund Site. However, according to the EPA Record of Decision document, grid surface soil samples located generally on the developed portion of the site and surface soil samples collected at the 33 remedial investigation study group homes showed lead levels over most of the Gordon Plaza Subdivision ranged from 100 to 1,000 parts per million in surface soils.

Property Description:

(See attached)



**WILBERT JORDAN**

Signature of Person Filing Parish Record

Typed Name and Title of Person Filing Parish Record

Dec. 1, 2006

Date

(A true copy of the document certified by the parish clerk of court must be sent to the Remediation Services Division, Post Office Box 4314, Baton Rouge, Louisiana 70821-4314.)



BEST COPY

STAMPED COPY \*\*\* STAMPED COPY  
NA #: 06-53711 INST. #: 335413  
TYPE: MISCELLANEOUS  
AMT: \$36.00  
DATE: 12/18/2006 12:05:40 PM  
Hon. Gasper J. Schiro  
Registrar of Conveyances

ONE CERTAIN LOT OF GROUND, together with all of the buildings and improvements thereon and all of the servitudes, rights and appurtenances thereunto belonging or in anywise appertaining, situated in the State of Louisiana, Parish of Orleans, in the Third Municipal District of the City of New Orleans, in that part thereof now known as GORDON PLAZA SUBDIVISION, Phase I, as delineated on a plan of resubdivision by J. J. Krebs & Sons, Inc., C.E. & S., dated April 9, 1980, approved by the City Planning Commission of the City of New Orleans on December 11, 1980, under S/D Docket 35/76, Title Change registered in C.O.B. 771 folio 303. According to a survey by Robert E. Oswald, Registered Land Surveyor, dated March 18, 1981, said lot of ground is designated and described as follows, to-wit:

LOT NO. 22 in SQUARE 5-A, which square is bounded by Gordon Plaza Drive, Benefit Street, St. Ferdinand Street and Abundance Street. Said LOT NO. 22 commences at a distance of 99.45 feet from the corner of Gordon Plaza Drive and Benefit Street, and measures thence 50 feet front on GORDON PLAZA DRIVE, same in width in the rear, by a depth of 100 feet, between equal and parallel lines.

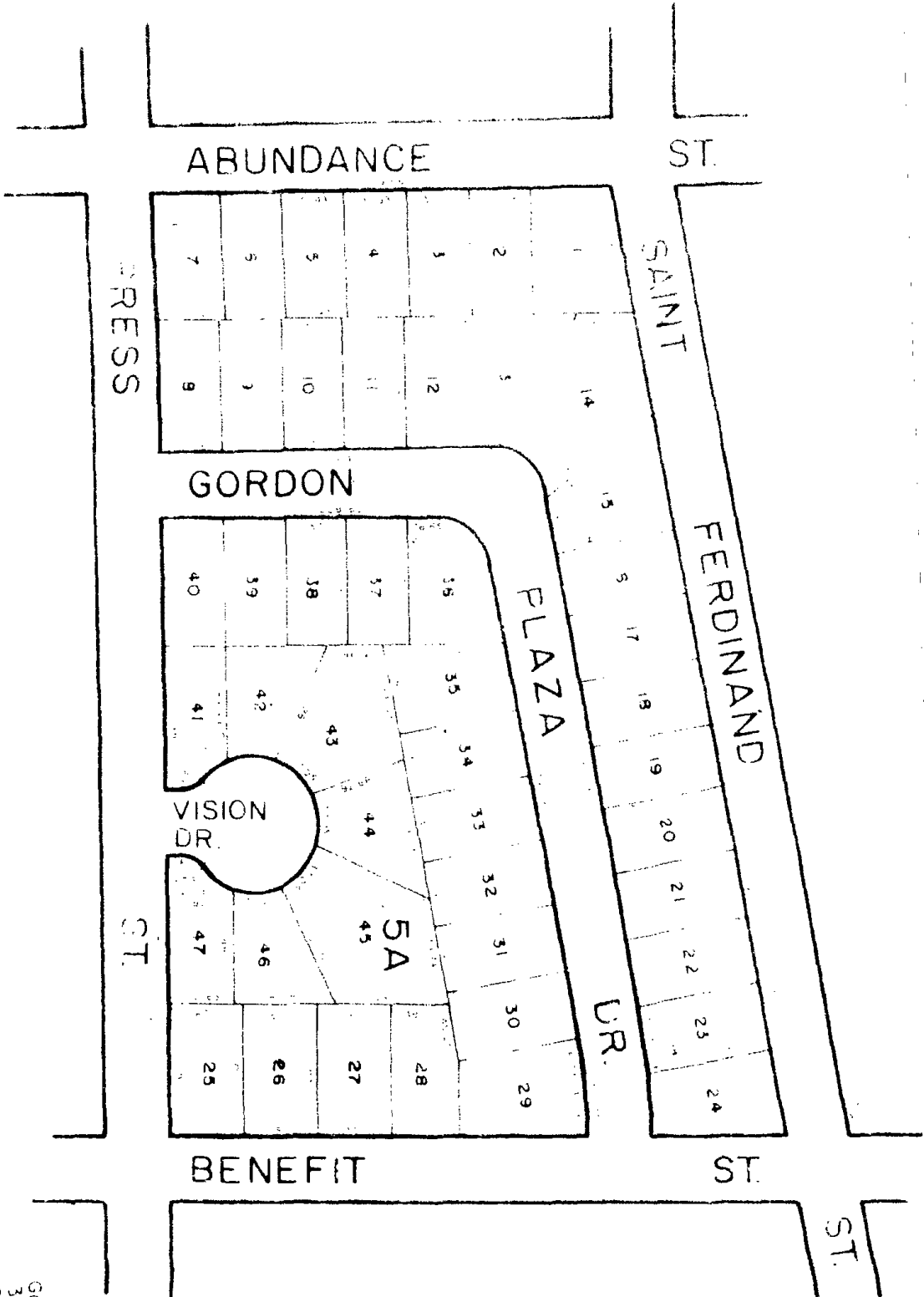
Improvements thereon bear Municipal No. 72 Gordon Plaza Drive.

Being part of the property acquired by Vendor herein from Desire Community Housing Corporation, by act before James A. Gray, II, Notary Public, dated November 6, 1980, registered in C.O.B. 773 folio 90, Orleans Parish, Louisiana.

This Act is made and accepted subject to the following:

(a) Restrictive covenants set forth in an instrument registered in C.O.B. 773I folio 199, Orleans Parish, Louisiana.

(b) Five-foot servitude to South Central Bell, which extends across the entire front width of the subject lot, as shown on the approved, recorded plan of resubdivision.



GOR  
3M-  
SCA

**RECEIPT FOR FILING**  
**Stephen P. Bruno**  
**Custodian of Notarial Records**  
**for the Parish of Orleans, State of Louisiana**

1340 POYDRAS STREET, SUITE 500  
NEW ORLEANS, LOUISIANA 70112  
TELEPHONE: (504) 568-8577

Filed by: LA Dept Environ. Quality

Notary Public who passed act: \_\_\_\_\_

Instrument filed: \_\_\_\_\_

\_\_\_\_\_

**Registered in Conveyance Office 592-9170**

Instrument # 335412

Book \_\_\_\_\_, Folio \_\_\_\_\_

New Orleans, Louisiana

Date: 12/18/06 SPB

**Recorded in the Mortgage Office 592-9176**

Instrument # \_\_\_\_\_

Book \_\_\_\_\_, Folio \_\_\_\_\_

New Orleans, Louisiana

Date: \_\_\_\_\_

Time: \_\_\_\_\_

RECEIVED  
NOTARY PUBLIC  
2006-53710 B18  
PARISH OF ORLEANS

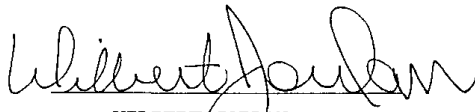
## CONVEYANCE NOTIFICATION

The Louisiana Department of Environmental Quality (LDEQ) hereby notifies the public that the following described property located on the Agriculture Street Landfill Superfund Site, Louisiana Department of Environmental Quality (LDEQ) Agency Interest Number 84977, may contain contaminant levels present that are unacceptable for non-industrial use of the property as described in the Louisiana Department of Environmental Quality's (LDEQ) Risk Evaluation/Corrective Action Program (RECAP), Section 2.9.

This property, located in the Gordon Plaza Subdivision, was not included in the US Environmental Protection Agency (EPA) remediation of the Agriculture Street Landfill Superfund Site. However, according to the EPA Record of Decision document, grid surface soil samples located generally on the developed portion of the site and surface soil samples collected at the 33 remedial investigation study group homes showed lead levels over most of the Gordon Plaza Subdivision ranged from 100 to 1,000 parts per million in surface soils.

Property Description:

(See attached)

  
WILBERT JORDAN  
Signature of Person Filing Parish Record

2006-53710-18  
PARISH OF ORLEANS

Typed Name and Title of Person Filing Parish Record

Dec. 1, 2006

Date

(A true copy of the document certified by the parish clerk of court must be sent to the Remediation Services Division, Post Office Box 4314, Baton Rouge, Louisiana 70821-4314.)

STAMPED COPY \*\*\* STAMPED COPY  
NA #: 06-53710 INST. #: 335412  
TYPE: MISCELLANEOUS  
AMT: \$36.00  
DATE: 12/18/2006 12:05:37 PM  
Hon: Gasper J. Schirano  
Registrar of Conveyances

A CERTAIN LOT OR PARCEL OF GROUND, together with all the buildings and improvements thereon, and all the rights, ways, privileges, servitudes, appurtenances and advantages thereunto belonging or in anywise appertaining, situated in the Third Municipal District of the City of New Orleans, State of Louisiana, in that part thereof known as GORDON PLAZA SUBDIVISION, PHASE 1, being a resubdivision of portions of former Squares 5, 6 and 8, and a portion of ST. FERDINAND STREET, and, according to a plan of resubdivision of J. J. Krebs & Sons, Inc., Engineers, Planners & Surveyors, dated April 9, 1980, approved by the New Orleans City Planning Commission on December 11, 1980, under Docket No. 35/76, registered in C.O.B. 771, folio 303, the said lot or parcel of ground is designated as follows:

LOT 6 of SQUARE 5-A, which said Square is bounded by PRESS, BENEFIT, ST. FERDINAND and ABUNDANCE STREETS and VISION DRIVE, commences fifty-five feet (55') from the corner of PRESS and ABUNDANCE STREETS, and measures thence fifty-one and ninety-three hundredths feet (51.93') front on ABUNDANCE STREET, same width in the rear, by a depth of one hundred feet (100') between equal and parallel lines, all as is more fully shown on a survey of Robert E. Oswald, Inc., R.L.S., dated March 20, 1981, and recertified July 13, 1981.

The improvements thereon bear the Municipal No. 2891 ABUNDANCE STREET.

Being a portion of the same property acquired by GORDON PLAZA SINGLE-FAMILY DEVELOPMENT, INC., from DESIRE COMMUNITY HOUSING CORPORATION, by act passed before James A. Gray, II, Notary Public, dated November 6, 1980, registered in C.O.B. 773, folio 90.

FILED  
CUSTODIAN OF  
NOTARIAL RECORDS  
PARISH OF ORLEANS  
JUL 20 1981

419150

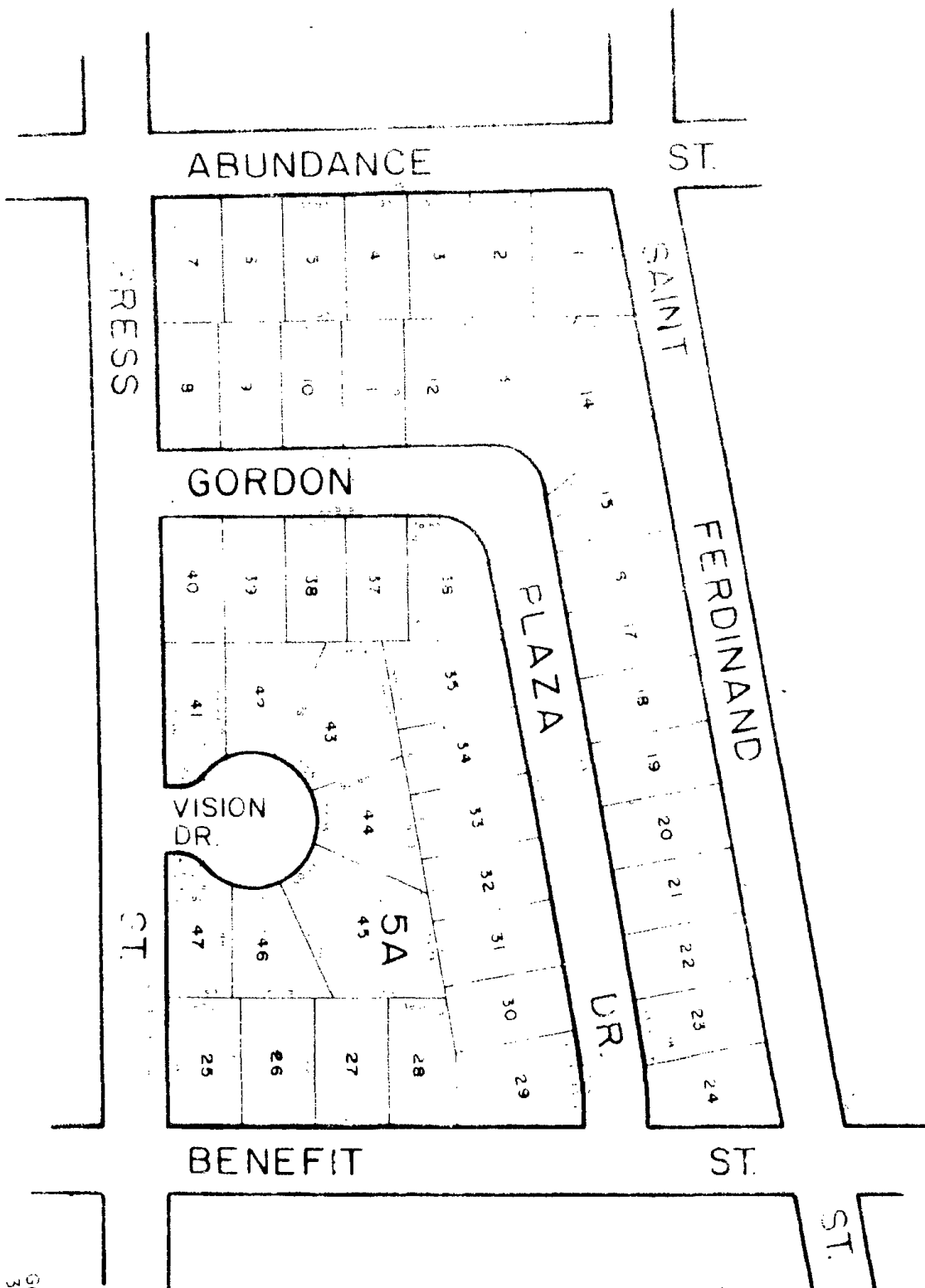
This sale is made and accepted subject to any and all applicable restrictions, servitudes, rights-of-way and outstanding mineral interests contained in the chain of title, without in any way renewing the same or acknowledging the validity thereof, and, in particular, the following:

- (A) Restrictive Covenants created by GORDON PLAZA SINGLE FAMILY DEVELOPMENT, INC., by act passed before James A. Gray, II, Notary Public, dated April 27, 1981, registered in C.O.B. 773-I, folios 199-201.
- (B) Five foot (5') servitude across the rear of the property in favor of South Central Bell Telephone Company as shown on the plan of subdivision and the survey annexed hereto.

Purchasers Marital Status - Continued:

Louisiana, in Proceedings No. 228-334, and secondly to [REDACTED], with whom he is presently living and residing; and that their mailing address is 2891 Abundance Street, New Orleans, Louisiana.





**RECEIPT FOR FILING**  
**Stephen P. Bruno**  
**Custodian of Notarial Records**  
**for the Parish of Orleans, State of Louisiana**

1340 POYDRAS STREET, SUITE 500  
NEW ORLEANS, LOUISIANA 70112  
TELEPHONE: (504) 568-8577

Filed by: LA Department of Environmental Quality

Notary Public who passed act: \_\_\_\_\_

Instrument filed: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

2006-53709 2 18  
PARISH OF ORLEANS  
CUSTODIAN OF  
RECORDS

**Registered in Conveyance Office 592-9170**

**Recorded in the Mortgage Office 592-9176**

Instrument # 335411

Instrument # \_\_\_\_\_

Book \_\_\_\_\_, Folio \_\_\_\_\_

Book \_\_\_\_\_, Folio \_\_\_\_\_

New Orleans, Louisiana

New Orleans, Louisiana

Date: 12/18/06 

Date: \_\_\_\_\_

Time: \_\_\_\_\_

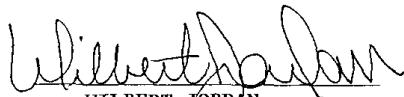
## CONVEYANCE NOTIFICATION

The Louisiana Department of Environmental Quality (LDEQ) hereby notifies the public that the following described property located on the Agriculture Street Landfill Superfund Site, Louisiana Department of Environmental Quality (LDEQ) Agency Interest Number 84977, may contain contaminant levels present that are unacceptable for non-industrial use of the property as described in the Louisiana Department of Environmental Quality's (LDEQ) Risk Evaluation/Corrective Action Program (RECAP), Section 2.9.

This property, located in the Gordon Plaza Subdivision, was not included in the US Environmental Protection Agency (EPA) remediation of the Agriculture Street Landfill Superfund Site. However, according to the EPA Record of Decision document, grid surface soil samples located generally on the developed portion of the site and surface soil samples collected at the 33 remedial investigation study group homes showed lead levels over most of the Gordon Plaza Subdivision ranged from 100 to 1,000 parts per million in surface soils.

Property Description:

(See attached)



WILBERT JORDAN  
Signature of Person Filing Parish Record

\_\_\_\_\_  
Typed Name and Title of Person Filing Parish Record

Dec. 1, 2006

Date

(A true copy of the document certified by the parish clerk of court must be sent to the Remediation Services Division, Post Office Box 4314, Baton Rouge, Louisiana 70821-4314.)

2006-53709 # 18  
PARISH OF ORLEANS

STAMPED COPY \*\*\* STAMPED COPY  
NA #: 06-53709 INST. #: 335411  
TYPE: MISCELLANEOUS  
AMT: \$36.00  
DATE: 12/18/2006 12:05:35 PM  
Hon. Gaspar J. Schiro  
Registrar of Conveyances

EXHIBIT "A"

A CERTAIN LOT OF GROUND, together with all the buildings and improvements thereon, and all the rights, ways privileges, servitudes, appurtenances and advantages thereunto belonging or in anywise appertaining, situated in the Third District of the City of New Orleans in that part known as Gordon Plaza Subdivision in Square No. 5-A, bounded by St. Ferdinand, Press and Abundance Street and Gordon Plaza Drive, designated as Lot No. 3 on a survey made by J.J. Krebs & Sons, Inc., Surveyors, dated April 9, 1980, a copy of which was submitted to the City Planning and Zoning Commission for the resubdivision of Square 5 into the Gordon Plaza Subdivision; and, according to said survey, Lot 3 commences at a distance of 106.94 feet on the northeastern side of the intersection on St. Ferdinand and Abundance Streets and measures thence 51.93 feet FRONT on Abundance Street, same width in the rear, by a depth of 100 feet between equal and parallel lines.

The buildings and improvements thereon bear the Municipal No. 2873 Abundance Street.

Being part of the same property acquired by Gordon Plaza Single Family Development, Inc. from Desire Community Housing Corporation by act before James A. Gray, II, Notary Public, on the 6th day of November, 1980, registered in COB 773 folio 90 of the records of the Parish of Orleans.

JUN 6 1980

412935

Registered in  
Conveyance Office

*James A. Gray II*  
Notary Public

A. D. 19 , and duly recorded on

19

Book Folio

Page

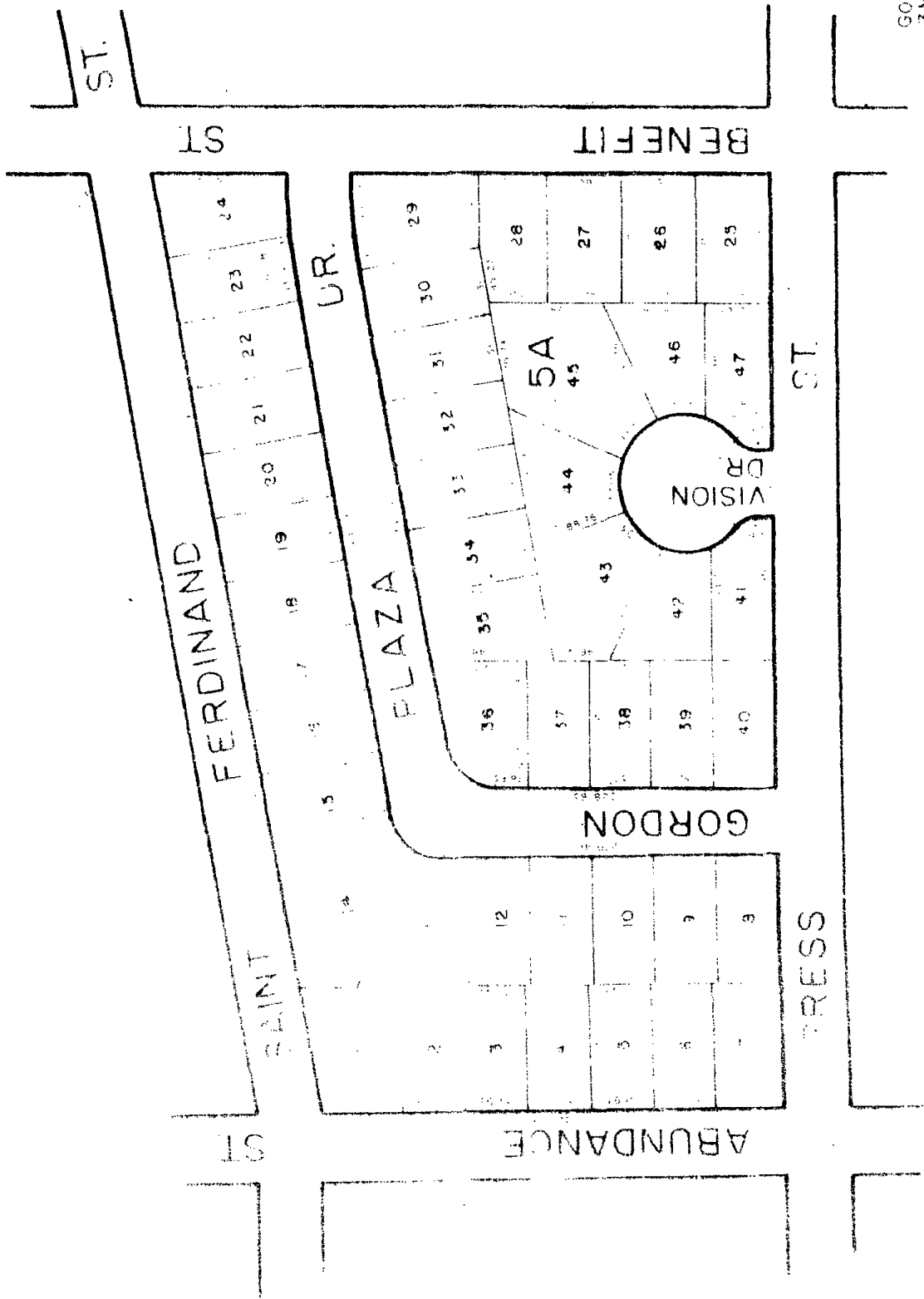
whereof I hereunto sign my name and affix my seal of office the date above filed.

GASPER J. SCHIRO  
REGISTRAR

Court, Parish of

Clerk  
la.

*Gasper J. Schiro*  
REG. CLK



GORDON PLAZA SUBDV.  
 3M-9W  
 SCALE 1" = 100'

## **Attachment 8**

### **Consent Decree**

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IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF LOUISIANA

UNITED STATES OF AMERICA,

Plaintiff,

v.

CITY OF NEW ORLEANS; CFI INDUSTRIES, INC.,  
formerly doing business as Letellier Phillips Paper  
Company; DELTA BY-PRODUCTS, INC.;  
EDWARD LEVY METALS, INC,

Defendants.

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§  
§  
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§  
§

Civil Action No. 02-3618  
Section "E"  
Magistrate 3

CONSENT DECREE

## TABLE OF CONTENTS

I.	<u>BACKGROUND</u> .....	3
II.	<u>JURISDICTION</u> .....	5
III.	<u>PARTIES BOUND</u> .....	5
IV.	<u>DEFINITIONS</u> .....	5
V.	<u>PERFORMANCE OF THE WORK BY SETTLING DEFENDANT</u> .....	8
VI.	<u>ACCESS AND INSTITUTIONAL CONTROLS</u> .....	10
VII.	<u>REPORTING REQUIREMENTS</u> .....	16
VIII.	<u>FORCE MAJEURE</u> .....	16
IX.	<u>DISPUTE RESOLUTION</u> .....	19
X.	<u>FAILURE TO COMPLY WITH CONSENT DECREE</u> .....	22
XI.	<u>COVENANT NOT TO SUE BY PLAINTIFF</u> .....	25
XII.	<u>RESERVATION OF RIGHTS BY UNITED STATES</u> .....	25
XIII.	<u>COVENANT NOT TO SUE BY SETTLING DEFENDANT</u> .....	27
XIV.	<u>EFFECT OF SETTLEMENT/CONTRIBUTION PROTECTION</u> .....	28
XV.	<u>ACCESS TO INFORMATION</u> .....	29
XVI.	<u>RETENTION OF RECORDS</u> .....	30
XVII.	<u>NOTICES AND SUBMISSIONS</u> .....	31
XVIII.	<u>RETENTION OF JURISDICTION</u> .....	32
XIX.	<u>INTEGRATION</u> .....	33
XX.	<u>LODGING AND OPPORTUNITY FOR PUBLIC COMMENT</u> .....	33
XXI.	<u>SIGNATORIES/SERVICE</u> .....	33
XXII.	<u>APPENDIX</u> .....	34
XXIII.	<u>FINAL JUDGMENT</u> .....	34

## **I. BACKGROUND**

A. The United States of America ("United States"), on behalf of the Administrator of the United States Environmental Protection Agency ("EPA"), filed a complaint in this matter pursuant to Sections 104 and 107 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, 42 U.S.C. §§ 9604 and 9607, as amended ("CERCLA"), against, inter alia, the City of New Orleans ("City" or Settling Defendant"), seeking civil penalties for its failure to comply with an access order and reimbursement of response costs incurred or to be incurred for response actions taken at or in connection with the release or threatened release of hazardous substances at the Agriculture Street Landfill Superfund Site in New Orleans, LA ("the Site").

B. In entering into this Consent Decree, the City does not admit any liability to Plaintiff or any other party arising out of the transactions or occurrences alleged in the complaint.

C. On August 23, 1994, the Site was proposed for inclusion on the National Priorities List (NPL) as part of NPL update No. 17, and on December 16, 1994, EPA placed the site on the NPL.

D. EPA performed removal actions at the Site under a series of operable units. Operable Unit 1 ("OU1") addressed Undeveloped Property, Operable Unit 2 ("OU2") addressed Residential Properties, and Operable Unit 3 ("OU3") addressed the Shirley Jefferson Community Center. No actions by EPA were needed on Operable Unit 4 ("OU4") (Moton Elementary School) or Operable Unit 5 ("OU5") (Ground Water). The removal action on OUI consisted of clearing the 48-acre area, grading it to direct storm water runoff away from the residential area, laying a permeable geotextile mat followed with orange fencing, covering the

mat/marker with twelve inches of clean fill, and re-establishing a vegetative layer on the clean fill. The removal actions on OU2 and OU3 consisted generally of preparing the property, removing driveways and sidewalks as needed, excavating 24 inches of soil, placing a permeable geotextile mat/marker on the subgrade, backfilling the excavated area with clean fill, covering the clean fill with grass sod, landscaping and yard restoration, driveway and sidewalk replacement, and final detailing. Because contaminants have been left in place beneath the geotextile mat, proper operation and maintenance practices and institutional controls are required to maintain the integrity of the cap.

F. Based on the information presently available to EPA, EPA believes that the Work will be properly and promptly conducted by the Settling Defendant if conducted in accordance with the requirements of this Consent Decree and its appendices.

G. The United States has reviewed the Financial Information submitted by Settling Defendant, as well as publicly available information, to determine whether the Settling Defendant is financially able to pay Past Response Costs and civil penalties incurred in connection with the Site. Based upon this information and in light of the extraordinary financial difficulties of the Settling Defendant due to Hurricane Katrina, the United States has determined that Settling Defendant is unable to make a cash payment toward Past Response Costs or civil penalties incurred in connection with the Site.

H. The United States and Settling Defendant agree, and this Court by entering this Consent Decree finds, that this Consent Decree has been negotiated by the Parties in good faith, that settlement on the terms herein will avoid prolonged and complicated litigation between the Parties, and that this Consent Decree is fair, reasonable, and in the public interest.

THEREFORE, with the consent of the Parties to this Decree, it is ORDERED,  
ADJUDGED, AND DECREED:

## **II. JURISDICTION**

1. This Court has jurisdiction over the subject matter of this action pursuant to 28 U.S.C. §§ 1331 and 1345 and 42 U.S.C. §§ 9607 and 9613(b) and also has personal jurisdiction over Settling Defendants. Solely for the purposes of this Consent Decree and the underlying complaint, Settling Defendants waive all objections and defenses that they may have to jurisdiction of the Court or to venue in this District. Settling Defendants shall not challenge the terms of this Consent Decree or this Court's jurisdiction to enter and enforce this Consent Decree.

## **III. PARTIES BOUND**

2. This Consent Decree is binding upon the United States, and upon Settling Defendants and its successors and assigns. Any change in ownership or corporate or other legal status, including but not limited to, any transfer of assets or real or personal property, shall in no way alter the status or responsibilities of Settling Defendants under this Consent Decree.

## **IV. DEFINITIONS**

3. Unless otherwise expressly provided herein, terms used in this Consent Decree that are defined in CERCLA or in regulations promulgated under CERCLA shall have the meanings assigned to them in CERCLA or in such regulations. Whenever terms listed below are used in this Consent Decree, the following definitions shall apply:

a. "CERCLA" shall mean the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended, 42 U.S.C. §§ 9601, *et seq.*

- b. "Consent Decree" shall mean this Consent Decree.
- c. "Day" shall mean a calendar day. In computing any period of time under this Consent Decree, where the last day would fall on a Saturday, Sunday, or federal holiday, the period shall run until the close of business of the next working day.
- d. "DOJ" shall mean the United States Department of Justice and any successor departments, agencies or instrumentalities of the United States.
- e. "EPA" shall mean the United States Environmental Protection Agency and any successor departments, agencies or instrumentalities of the United States.
- f. "EPA Hazardous Substance Superfund" shall mean the Hazardous Substance Superfund established by the Internal Revenue Code, 26 U.S.C. § 9507.
- g. "Interest" shall mean interest at the rate specified for interest on investments of the EPA Hazardous Substance Superfund established by 26 U.S.C. § 9507, compounded annually on October 1 of each year, in accordance with 42 U.S.C. § 9607(a). The applicable rate of interest shall be the rate in effect at the time the interest accrues. The rate of interest is subject to change on October 1 of each year.
- h. "Operable Unit 1" or "OU1" shall mean the approximately 48 acres of undeveloped property that was cleared, graded, overlaid with a geotextile mat and 12 inches of clean fill, replanted, and fenced by EPA during the first removal action in March 1994 and that was subsequently repaired in March 1996.
- i. "Paragraph" shall mean a portion of this Consent Decree identified by an Arabic numeral or an upper or lower case letter.
- j. "Parties" shall mean the United States and Settling Defendants.

k. "Past Response Costs" shall mean all costs, including, but not limited to direct and indirect costs that EPA or DOJ on behalf of EPA has paid at or in connection with response actions for the Site through the date of lodging of this Consent Decree, plus accrued interest on all such costs.

l. "Plaintiff" shall mean the United States.

m. "Remedy" shall mean the placement of a permeable geotextile mat followed with orange fencing (to serve as a highly visible marker), covering the mat/marker with twelve inches of clean fill, and re-establishing a vegetative layer on the clean fill on OU1. For OU2 and OU3, the excavation of 24 inches of soil, placement of a permeable geotextile mat/marker on the subgrade, backfilling the excavated area with clean fill, covering the clean fill with grass sod, landscaping and yard restoration, driveway and sidewalk replacement, and final detailing.

n. "Section" shall mean a portion of this Consent Decree identified by a Roman numeral.

o. "Settling Defendant" shall mean the City of New Orleans.

p. "Site" shall mean the Agriculture Street Landfill Site located in Orleans Parish, City of New Orleans. The approximately 95-acre Site is bordered by Higgins Boulevard on the north, the above-grade railroad rights-of-way on the south and west, and the cul-de-sac at the southern end of Clouet Street, near the railroad tracks, to Higgins Boulevard between Press and Montegut streets on the east.

q. "United States" shall mean the United States of America, including its departments, agencies and instrumentalities.

r. "Work" shall mean the compliance requirements set forth in Section V of the

Decree.

4. Objectives of the Parties. The objectives of the Parties in entering into this Consent Decree are to protect the remedy on the Site and, thereby, the public health or welfare or the environment at the Site, by the implementation of the Work and institutional controls by Settling Defendant, and to resolve the claims of Plaintiff against Settling Defendant for Past Response Costs as provided in this Consent Decree.

**V. PERFORMANCE OF THE WORK BY SETTLING DEFENDANT**

5. The geotextile mat is covered by 12 inches of clean soil and a vegetative cover on the undeveloped properties (OU1), 18 inches of clean soil and a vegetative cover in the right of ways, and 24 inches of clean soil and a vegetative cover on residential properties and the community center. The vegetative cover is to prevent the erosion of the soil cap. The soil cap and geotextile mat covering the Site could be breached or degraded by excavation within the Site or by the failure to maintain the vegetative cover over the soil cap. Therefore, the City shall implement the following Work to maintain the cap and provide for appropriate restrictions on use and excavation of the property:

a. The Settling Defendant shall maintain and repair the security fence around the OU1 undeveloped property which is bordered by Higgins Boulevard to the north, Almonaster Boulavard to the west, by Industry Street to the north and above-grade railroad rights-of-way on the south, and by St. Ferdinand behind the homes located on Press Street and by the cul-de-sac at the southern end of Clouet Street, for a period of 10 years from the date of entry of the Decree, or until the Site is delisted from the NPL, or EPA otherwise approves the removal of the fence, whichever is sooner.



b. The Settling Defendant will mow vegetation at least twice per year, and otherwise maintain, its right of ways within OUI in order to maintain a stable vegetative cover. Because lack of mowing/maintenance by private owners of land within the Site is likely to damage the subsurface geotextile mat, the City will use its available authorities to (a) require that landowners mow and otherwise maintain the grass vegetation on their properties, or (b) undertake the necessary maintenance directly.

c. Within 60 days from the date of entry of this Decree, the City will provide to all utilities operating within the Site area the Technical Abstract for Utilities Operating Within the Agriculture Street Landfill Superfund Site, attached as Appendix A.

d. Within 60 days from the date of entry of this Decree, the City will join and maintain its membership in the LAOne Call program and will designate an office within the City as the point of contact to provide the Technical Abstract for Utilities Operating Within the Agriculture Street Landfill Superfund Site, attached as Appendix A, to be followed when excavating beneath the geotextile mat at the Site.<sup>1/</sup>

e. Within 60 days from the date of entry of this Decree, Settling Defendant will direct that all of its agencies and departments, including the Sewerage and Water Board of New Orleans ("SWB"), incorporate the Technical Abstract for Utilities Operating Within the Agriculture Street Landfill Superfund Site, attached as Exhibit A, as standard operating procedures when working within the Site.

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<sup>1/</sup>Ms. Thelma Latham (the General Manager of the Louisiana and Texas divisions of One Call Concepts, Inc. – 222-275-3700, ext 409). Louisiana's One Call website: [http://www.laonecall.com/for\\_best\\_results\\_frame\\_page.htm](http://www.laonecall.com/for_best_results_frame_page.htm) LAOne Call's membership list includes Bell South, Entergy, and Cox Communications. The Sewerage and Water Board of New Orleans and the City of New Orleans are not members.

f. Annual Notice to Property Owners Within the Site. The Settling Defendant will ensure that, within 60 days of entry of this Decree and on an annual basis thereafter, the SWB includes in bills to customers owning or renting property at the Site the protocol for Post-Removal Maintenance for Property Owners, attached as Appendix B to this Decree. Alternatively, within 60 days of entry of this Decree and on an annual basis thereafter, the Settling Defendant will mail the Protocol to property owners and renters at the Site.

g. Designation of Disposal Facility: Within 45 days from the date of entry of this Decree, the Settling Defendant will designate an appropriate landfill facility for the disposal of soils excavated and removed from beneath the geotextile mat. This disposal facility shall be identified in the Technical Abstract for Utilities Operating Within the Agriculture Street Landfill Superfund Site and in the Protocol for Post-Removal Maintenance for Property Owners.

6. Within 30 days of entry of this Decree, the Settling Defendant will designate an official of the City as the Project Coordinator who will be responsible for ensuring the City's compliance with the requirements of the Decree. The Settling Defendant's performance of the Work obligations under Section V and obligations under Section VI of this Consent Decree shall be under the direction and supervision of the Project Coordinator, and that person shall be the lead point of contact for EPA with the City. If at any time thereafter, Settling Defendant proposes to change the Project Coordinator, Settling Defendant shall give notice to EPA before the new designee performs, directs, or supervises any Work under this Consent Decree.

#### **VI. ACCESS AND INSTITUTIONAL CONTROLS**

7. If the Site, or any other property where access and/or use restrictions are needed

implement this Consent Decree, is owned or controlled by the Settling Defendant, then the Settling Defendant shall:

a. commencing on the date of lodging of this Consent Decree, provide the United States and its representatives, including EPA and its contractors, with access at all reasonable times to the Site, or such other property, for the purpose of conducting any activity related to this Consent Decree including, but not limited to, the following activities:

(1) Monitoring, investigation, removal, remedial or other activities at the Site, including 5-year reviews;

(2) Verifying any data or information submitted to the United States;

(3) Conducting investigations relating to contamination at or near the Site;

(4) Obtaining samples;

(5) Assessing the need for, planning, or implementing additional response actions at or near the Site;

(6) Inspecting and copying records, operating logs, contracts, or other documents maintained or generated by Settling Defendant or its agents, consistent with Section XV (Access to Information);

(7) Assessing Settling Defendant's compliance with this Consent Decree; and

(8) Determining whether the Site or other property is being used in a manner that is prohibited or restricted, or that may need to be prohibited or restricted, by or pursuant to this Consent Decree;

b. commencing on the date of lodging of this Consent Decree, refrain from using the Site, or such other property, in any manner that would interfere with or adversely affect the implementation, integrity, or protectiveness of the remedy completed for the Site. Such restrictions include, but are not limited to disturbances to the surface or subsurface of the Site, including filling, drilling, excavation or construction on the Site, that is unrelated to the remedy measures implemented at the Site, unless such excavation is consistent with the Technical Abstract for Utilities attached hereto as Appendix A.

and

c. execute and record in the Recorder's Office [or Registry of Deeds or other appropriate land records office] of Orleans Parish, State of Louisiana, an easement, running with the land, that (i) grants a right of access for the purpose of conducting any activity related to this Consent Decree including, but not limited to, those activities listed in Paragraph 7(a) of this Consent Decree, and (ii) grants the right to enforce the land use restrictions listed in Paragraph 7(b) of this Consent Decree, or other restrictions that EPA determines are necessary to implement, ensure non-interference with, or ensure the protectiveness of the remedy completed for the Site. Settling Defendant shall grant the access rights and the rights to enforce the land use restrictions to the United States, on behalf of EPA, and its representatives, and (ii) the State and its representatives.

8. Settling Defendant shall, within 45 days of entry of this Consent Decree, submit to

EPA for review and approval with respect to such property:

a. a draft easement, in substantially the form attached hereto as

Appendix C, that is enforceable under the laws of the State of Louisiana, and

b. a current title insurance commitment or some other evidence of title acceptable to EPA, which shows title to the land described in the easement to be free and clear of all prior liens and encumbrances (except when those liens or encumbrances are approved by EPA or when, despite best efforts, Settling Defendant is unable to obtain release or subordination of such prior liens or encumbrances). Within 15 days of EPA's approval and acceptance of the easement and the title evidence, Settling Defendant shall update the title search and, if it is determined that nothing has occurred since the effective date of the commitment to affect the title adversely, record the easement with the Recorder's Office [or Registry of Deeds or other appropriate office] of Orleans Parish. Within 30 days of recording the easement, Settling Defendant shall provide EPA with a final title insurance policy, or other final evidence of title acceptable to EPA, and a certified copy of the original recorded easement showing the clerk's recording stamps. If the easement is to be conveyed to the United States, the easement and title evidence (including final title evidence) shall be prepared in accordance with the U.S. Department of Justice Title Standards 2001, and approval of the sufficiency of title must be obtained as required by 40 U.S.C. § 255.

9. Conveyance Notice. If the Site, or any other property where access and or land use restrictions are needed to implement this Consent Decree, is owned or controlled by persons other than the Settling Defendant, then Settling Defendant shall, within 60 days of the entry of this Decree, make best efforts to execute and record in the Recorder's Office [or Registry of Deeds or other appropriate land records office] of Orleans Parish, State of Louisiana, an EPA approved conveyance notice, running with the land, to alert future transferees of the response

action and waste in place, and to explain maintenance and excavation guidelines for the property. The conveyance notice will be substantially in the form of the Conveyance Notice set forth in Appendix D.

10. Within 30 days of the recording of the Conveyance Notice, Settling Defendant shall provide EPA with a certified copy of the original recorded Conveyance Notice showing the clerk's recording stamps. If any access easement or conveyance notice required by Paragraph 9 of this Consent Decree is not recorded within 60 days of the date of entry of this Consent Decree, Settling Defendant shall promptly notify the United States in writing, and shall include in that notification a summary of the steps that Settling Defendant have taken to attempt to comply with Paragraphs 8 and 9 of this Consent Decree. The United States may, as it deems appropriate, assist Settling Defendant in obtaining access or land/water use restrictions, either in the form of contractual agreements or in the form of easements running with the land, or in obtaining the release or subordination of a prior lien or encumbrance. Settling Defendant shall reimburse the United States for all costs incurred, direct or indirect, by the United States in obtaining such access, land/water use restrictions, and/or the release/subordination of prior liens or encumbrances including, but not limited to, the cost of attorney time and the amount of monetary consideration paid or just compensation, in accordance with the payment procedures in Paragraph 28.

11. EPA has determined that additional restrictions on excavation within the Site in the form of a zoning ordinance and/or excavation permit requirement are needed to protect and ensure the integrity and protectiveness thereof, or ensure non-interference therewith, the remedy at the Site.

a. Therefore, within 60 days of the entry of this Decree, Settling Defendant shall submit to EPA for approval a proposed zoning ordinance and/or permit requirement that will meet in substance the following objectives: (a) require that owners or lessees of land within the Site (b) who seek to excavate soil to a depth of greater than 18 inches (c) provide notice to the appropriate City department of their intent to excavate and to comply with the Protocol on Post-Removal Maintenance for Property Owners for the handling of contaminated soils and repair of the soil/geotextile mat (d) no less than 3 days prior to the proposed excavation, and (e) make available to those persons in a timely and readily accessible fashion the Protocol on Post-Removal Maintenance for Property Owners which is attached as Appendix B.

b. The Settling Defendant will make best efforts to submit the proposed ordinance/requirement to the appropriate City authority for approval and adoption within 60 days of EPA's approval of the proposal. If the proposed ordinance/requirement is rejected by the appropriate City authority, then the Settling Defendant will submit a revised proposal to EPA within 45 days for approval and, upon approval, resubmit to the appropriate City authority for approval and adoption. This process shall be followed by the Settling Defendant until such time as an EPA approved ordinance/requirement is adopted by the City. The schedule for review, approval, and resubmission to EPA and/or the City authority may be modified for cause upon written request to, and agreement by, EPA. The Settling Defendant will notify EPA within 30 days after the proposed ordinance/requirement becomes effective in accordance with Section XVII (Notice and Submissions).

12. If EPA determines that land/water use restrictions in the form of state or local laws, regulations, ordinances or other governmental controls are needed to implement the

remedy selected in the ROD, ensure the integrity and protectiveness thereof, or ensure non-interference therewith, Settling Defendant shall cooperate with EPA's efforts to secure such governmental controls.

13. Notwithstanding any provision of this Consent Decree, the United States retains all of its access authorities and rights, as well as all of its rights to require land/water use restrictions, including enforcement authorities related thereto, under CERCLA, RCRA and any other applicable statute or regulations.

#### **VII. REPORTING REQUIREMENTS**

14. In addition to any other requirement of this Consent Decree, Settling Defendant shall submit to EPA on an annual basis beginning one year from the effective date of the Decree a written progress report that describes the actions which have been taken to achieve compliance and the status of compliance with Section V of this Consent Decree during the previous year.

15. All reports and other documents submitted by Settling Defendant to EPA which purport to document Settling Defendant's compliance with the terms of this Consent Decree shall be signed by an authorized representative of the Settling Defendant.

#### **VIII. FORCE MAJEURE**

16. "Force majeure," for purposes of this Consent Decree, is defined as any event arising from causes beyond the control of the Settling Defendant, of any entity controlled by Settling Defendant, or of Settling Defendant's contractors, that delays or prevents the performance of any obligation under this Consent Decree despite Settling Defendant's best efforts to fulfill the obligation. The requirement that the Settling Defendant exercise "best efforts to fulfill the obligation" includes using best efforts to anticipate any potential force



majeure event and best efforts to address the effects of any potential force majeure event (1) as it is occurring and (2) following the potential force majeure event, such that the delay is minimized to the greatest extent possible. "Force Majeure" does not include financial inability to complete the Work.

17. If any event occurs or has occurred that may delay the performance of any obligation under this Consent Decree, whether or not caused by a force majeure event, the Settling Defendant shall notify orally EPA's Project Coordinator or, in his or her absence, EPA's Alternate Project Coordinator or, in the event both of EPA's designated representatives are unavailable, the Director of the Superfund Division, EPA Region 6, within 24 hours of when Settling Defendant first knew that the event might cause a delay. Within five (5) days thereafter, Settling Defendant shall provide in writing to EPA and the State an explanation and description of the reasons for the delay; the anticipated duration of the delay; all actions taken or to be taken to prevent or minimize the delay; a schedule for implementation of any measures to be taken to prevent or mitigate the delay or the effect of the delay; the Settling Defendant's rationale for attributing such delay to a force majeure event if they intend to assert such a claim; and a statement as to whether, in the opinion of the Settling Defendant, such event may cause or contribute to an endangerment to public health, welfare or the environment. The Settling Defendant shall include with any notice all available documentation supporting its claim that the delay was attributable to a force majeure. Failure to comply with the above requirements shall preclude Settling Defendant from asserting any claim of force majeure for that event for the period of time of such failure to comply, and for any additional delay caused by such failure. Settling Defendant shall be deemed to know of any circumstance of which Settling Defendant,

any entity controlled by Settling Defendant, or Settling Defendant's contractors, knew or should have known.

18. If EPA, after a reasonable opportunity for review and comment by the State, agrees that the delay or anticipated delay is attributable to a force majeure event, the time for performance of the obligations under this Consent Decree that are affected by the force majeure event will be extended by EPA, after a reasonable opportunity for review and comment by the State, for such time as is necessary to complete those obligations. An extension of the time for performance of the obligations affected by the force majeure event shall not, of itself, extend the time for performance of any other obligation. If EPA, after a reasonable opportunity for review and comment by the State, does not agree that the delay or anticipated delay has been or will be caused by a force majeure event, EPA will notify the Settling Defendant in writing of its decision. If EPA, after a reasonable opportunity for review and comment by the State, agrees that the delay is attributable to a force majeure event, EPA will notify the Settling Defendant in writing of the length of the extension, if any, for performance of the obligations affected by the force majeure event.

19. If Settling Defendant elects to invoke the dispute resolution procedures set forth in Section IX (Dispute Resolution), they shall do so no later than 15 days after receipt of EPA's notice. In any such proceeding, Settling Defendant shall have the burden of demonstrating by a preponderance of the evidence that the delay or anticipated delay has been or will be caused by a force majeure event, that the duration of the delay or the extension sought was or will be warranted under the circumstances, that best efforts were exercised to avoid and mitigate the effects of the delay, and that Settling Defendant complied with the requirements of

Paragraph 17, above. If Settling Defendant carries this burden, the delay at issue shall be deemed not to be a violation by Settling Defendant of the affected obligation of this Consent Decree identified to EPA and the Court.

#### **IX. DISPUTE RESOLUTION**

20. Unless otherwise expressly provided for in this Consent Decree, the dispute resolution procedures of this Section shall be the exclusive mechanism to resolve disputes arising under or with respect to this Consent Decree. However, the procedures set forth in this Section shall not apply to actions by the United States to enforce obligations of the Settling Defendant that have not been disputed in accordance with this Section.

21. Any dispute which arises under or with respect to this Consent Decree shall in the first instance be the subject of informal negotiations between the parties to the dispute. The period for informal negotiations shall not exceed 20 days from the time the dispute arises, unless it is modified by written agreement of the parties to the dispute. The dispute shall be considered to have arisen when one party sends the other parties a written Notice of Dispute.

22. **Statements of Position.**

a. In the event that the parties cannot resolve a dispute by informal negotiations under the preceding Paragraph, then the position advanced by EPA shall be considered binding unless, within 14 days after the conclusion of the informal negotiation period, Settling Defendants invoke the formal dispute resolution procedures of this Section by serving on the United States and the State a written Statement of Position on the matter in dispute, including, but not limited to, any factual data, analysis or opinion supporting that position and any supporting documentation relied upon by the Settling Defendants. The

Statement of Position shall specify the Settling Defendant's position as to whether formal dispute resolution should proceed under Paragraph 23 or Paragraph 24.

b. Within 30 days after receipt of Settling Defendant's Statement of Position, EPA will serve on Settling Defendant its Statement of Position, including, but not limited to, any factual data, analysis, or opinion supporting that position and all supporting documentation relied upon by EPA. EPA's Statement of Position shall include a statement as to whether formal dispute resolution should proceed under Paragraph 23 or 24. Within 7 days after receipt of EPA's Statement of Position, Settling Defendant may submit a Reply.

c. If there is disagreement between EPA and the Settling Defendants as to whether dispute resolution should proceed under Paragraph 23 or 24, the parties to the dispute shall follow the procedures set forth in the paragraph determined by EPA to be applicable. However, if the Settling Defendant ultimately appeals to the Court to resolve the dispute, the Court shall determine which paragraph is applicable in accordance with the standards of applicability set forth in Paragraphs 23 and 24, respectively.

23. Formal dispute resolution for disputes pertaining to the selection or adequacy of any response action and all other disputes that are accorded review on the administrative record under applicable principles of administrative law shall be conducted pursuant to the procedures set forth in this Paragraph. For purposes of this Paragraph, the adequacy of any response action includes, without limitation: (1) the adequacy or appropriateness of plans, procedures to implement plans, or any other items requiring approval by EPA under this Consent Decree; and (2) the adequacy of the performance of response actions taken pursuant to this Consent Decree. Nothing in this Consent Decree shall be construed to allow any dispute by Settling Defendant

regarding the validity of the Action Memorandum's provisions.

a. An administrative record of the dispute shall be maintained by EPA and shall contain all statements of position, including supporting documentation, submitted pursuant to this Section. Where appropriate, EPA may allow submission of supplemental statements of position by the parties to the dispute.

b. The Director of the Superfund Division, EPA Region 6, will issue a final administrative decision resolving the dispute based on the administrative record described in Paragraph 23.a. This decision shall be binding upon Settling Defendant, subject only to the right to seek judicial review pursuant to Paragraph 23c. and d.

c. Any administrative decision made by EPA pursuant to Paragraph 23.b shall be reviewable by this Court, provided that a motion for judicial review of the decision is filed by Settling Defendant with the Court and served on all Parties within 10 days of receipt of EPA's decision. The motion shall include a description of the matter in dispute, the efforts made by the parties to resolve it, the relief requested, and the schedule, if any, within which the dispute must be resolved to ensure orderly implementation of this Consent Decree. The United States may file a response to Settling Defendant's motion.

d. In proceedings on any dispute governed by this Paragraph, Settling Defendant shall have the burden of demonstrating that the decision of the Superfund Division Director is arbitrary and capricious or otherwise not in accordance with law. Judicial review of EPA's decision shall be on the administrative record compiled pursuant to Paragraph 23.a.

24. Formal dispute resolution for disputes that neither pertain to the selection or adequacy of any response action nor are otherwise accorded review on the administrative record

under applicable principles of administrative law, shall be governed by this Paragraph.

a. Following receipt of Settling Defendant's Statement of Position submitted pursuant to Paragraph 22, the Director of the Superfund Division, EPA Region 6, will issue a final decision resolving the dispute. The Superfund Division Director's decision shall be binding on the Settling Defendant unless, within 10 days of receipt of the decision, the Settling Defendant files with the Court and serve on the parties a motion for judicial review of the decision setting forth the matter in dispute, the efforts made by the parties to resolve it, the relief requested, and the schedule, if any, within which the dispute must be resolved to ensure orderly implementation of the Consent Decree. The United States may file a response to Settling Defendant's motion.

b. Judicial review of any dispute governed by this Paragraph shall be governed by applicable principles of law.

25. The invocation of formal dispute resolution procedures under this Section shall not extend, postpone or affect in any way any obligation of the Settling Defendant under this Consent Decree, not directly in dispute, unless EPA or the Court agrees otherwise. Stipulated penalties with respect to the disputed matter shall continue to accrue but payment shall be stayed pending resolution of the dispute as provided in Paragraph 29. Notwithstanding the stay of payment, stipulated penalties shall accrue from the first day of noncompliance with any applicable provision of this Consent Decree. In the event that the Settling Defendant does not prevail on the disputed issue, stipulated penalties shall be assessed and paid as provided in Section X (Failure to Comply with Consent Decree).

#### **X. FAILURE TO COMPLY WITH CONSENT DECREE**

26. Stipulated Penalty. Settling Defendant shall be liable for stipulated penalties in the amounts set forth below to the United States for failure to comply with the requirements of this Consent Decree, unless excused under Section VIII (Force Majeure). "Compliance" by Settling Defendant shall include completion of the activities under Sections V or VI of this Consent Decree in accordance with all applicable requirements of law, this Consent Decree, and any plans or other documents approved by EPA pursuant to this Consent Decree and within the specified time schedules established by and approved under this Consent Decree.

27. Stipulated Penalty Amounts - Work.

a. The following stipulated penalties shall accrue per violation per day for any noncompliance identified in Subparagraph 27.b:

<u>Penalty Per Violation Per Day</u>	<u>Period of Noncompliance</u>
\$100	1st through 14th day
\$200	15th through 30th day
\$300	31st day and beyond

b. Compliance Milestones.

The compliance milestones include the deadlines for compliance set forth in Paragraph 5 (c)-(g) and Paragraphs 7-9 and 12.

c. Settling Defendant's failure to comply with the requirements of Paragraphs 5(a) -(b) and 6 shall result in a stipulated penalty of \$100 per violation per day of noncompliance after written notice by EPA and a grace period of 30 days to correct the noncompliance.

28. a. Stipulated penalties are due and payable within 30 days of the date of the demand for payment of the penalties by EPA. All payments to EPA under this Paragraph shall

be identified as "stipulated penalties" and shall be made by certified or cashier's check made payable to "EPA Hazardous Substance Superfund." The check, or a letter accompanying the check, shall reference the name and address of the party making payment, the Site name, the EPA Region and Site Spill ID Number 06D7, DOJ Case Number 90-11-3-1638/2, and the civil action number. Settling Defendant shall send the check (and any accompanying letter) to:

U.S. Environmental Protection Agency - Region VI  
Attention: Superfund Accounting  
P.O. Box 360582M  
Pittsburgh, PA 15251

b. At the time of each payment, Settling Defendant shall also send notice that payment has been made to EPA and DOJ in accordance with Section XIII (Notices and Submissions). Such notice shall reference the EPA Region and Site/Spill ID Number 06D7, DOJ Case Number 90-11-3-1638/2, and the civil action number.

c. With the exception of penalties provided in Paragraph 15(c), penalties shall accrue as provided in this Paragraph regardless of whether EPA has notified Settling Defendant of the violation or made a demand for payment, but need only be paid upon demand. All penalties shall begin to accrue on the day after payment is due and shall continue to accrue through the date of payment. Nothing herein shall prevent the simultaneous accrual of separate penalties for separate violations of this Consent Decree.

29. Penalties shall continue to accrue as provided in Paragraph 28 during any dispute resolution period, but need not be paid until the following:

a. If the dispute is resolved by agreement or by a decision of EPA that is not appealed to this Court, accrued penalties determined to be owing shall be paid to EPA and the State within 15 days of the agreement or the receipt of EPA's decision or order;



b. If the dispute is appealed to this Court and the United States prevails in whole or in part, Settling Defendant shall pay all accrued penalties determined by the Court to be owed to EPA within 60 days of receipt of the Court's decision or order, except as provided in Subparagraph c below;

c. If the District Court's decision is appealed by any Party, Settling Defendant shall pay all accrued penalties determined by the District Court to be owing to the United States into an interest-bearing escrow account within 60 days of receipt of the Court's decision or order. Penalties shall be paid into this account as they continue to accrue, at least every 60 days. Within 15 days of receipt of the final appellate court decision, the escrow agent shall pay the balance of the account to EPA or to Settling Defendant to the extent that they prevail.

30. If the United States brings an action to enforce this Consent Decree, Settling Defendant shall reimburse the United States for all costs of such action, including but not limited to costs of attorney time.

31. Payments made under this Section shall be in addition to any other remedies or sanctions available to Plaintiff by virtue of Settling Defendant's failure to comply with the requirements of this Consent Decree.

32. Notwithstanding any other provision of this Section, the United States may, in its unreviewable discretion, waive payment of any portion of the stipulated penalties that have accrued pursuant to this Consent Decree. Payment of stipulated penalties shall not excuse Settling Defendant from payment as required by Section V or from performance of any other requirements of this Consent Decree.

#### **XI. COVENANT NOT TO SUE BY PLAINTIFF**

33. Covenant Not to Sue Settling Defendant by United States. Except as specifically provided in Section VIII (Reservation of Rights by United States), the United States covenants not to sue or to take administrative action against Settling Defendant pursuant to Sections 104(e), 106 and 107(a) of CERCLA, 42 U.S.C. §§ 9604(e), 9606, and 9607(a), to recover Past Response Costs, civil penalties related to the Settling Defendant's prior failure to provide access, or the Work. This covenant not to sue shall take effect upon Settling Defendant's recording of Conveyance Notices upon all properties at the Site as required by Section V and payment of any amount due under Section VI (Failure to Comply with Consent Decree). This covenant not to sue is conditioned upon the satisfactory performance by Settling Defendant of its obligations under this Consent Decree. This covenant not to sue extends only to Settling Defendant and does not extend to any other person.

## **XII. RESERVATIONS OF RIGHTS BY UNITED STATES**

34. The United States reserves, and this Consent Decree is without prejudice to, all rights against Settling Defendant with respect to all matters not expressly included within the Covenant Not to Sue by Plaintiff in Paragraph 33. Notwithstanding any other provision of this Consent Decree, the United States reserves all rights against Settling Defendant with respect to:

- a. liability for failure of Settling Defendant to meet a requirement of this Consent Decree;
- b. liability for costs incurred or to be incurred by the United States that are not within the definition of Past Response Costs;
- c. liability for injunctive relief or administrative order enforcement under Section 106 of CERCLA, 42 U.S.C. § 9606;

- d. criminal liability; and
- e. liability for damages for injury to, destruction of, or loss of natural resources, and for the costs of any natural resource damage assessments.

### **XIII. COVENANT NOT TO SUE BY SETTLING DEFENDANT**

35. Settling Defendant covenants not to sue and agree not to assert any claims or causes of action against the United States, or its contractors or employees, with respect to Past Response Costs, access, the Work, or this Consent Decree, including but not limited to:

- a. any direct or indirect claim for reimbursement from the Hazardous Substance Superfund based on Sections 106(b)(2), 107, 111, 112, or 113 of CERCLA, 42 U.S.C. §§ 9606(b)(2), 9607, 9611, 9612, or 9613, or any other provision of law;

- b. any claim arising out of the response actions at the Site for which the Past Response Costs were incurred, including any claim under the United States Constitution, the Tucker Act, 28 U.S.C. § 1491, the Equal Access to Justice Act, 28 U.S.C. § 2412, as amended, or at common law; or

- c. any claim against the United States, including any department, agency or instrumentality of the United States pursuant to Sections 107 and 113 of CERCLA, 42 U.S.C. §§ 9607 and 9613, relating to Past Response Costs, access, or the Work.

36. Nothing in this Consent Decree shall be deemed to constitute approval or preauthorization of a claim within the meaning of Section 111 of CERCLA, 42 U.S.C. § 9611, or 40 C.F.R. 300.700(d).

37. Settling Defendant agrees not to assert any claims for Past Response Costs, access or the Work, and to waive and dismiss all claims or causes of action that it may have relating to

Past Response Costs, access, or the Work, including for contribution, against any other person. This waiver shall not apply with respect to any defenses, claims or causes of action that Settling Defendant may have against any person if such person asserts a claim or cause of action relating to Past Response Costs, access, or the Work against such Settling Defendant and that claim is not otherwise barred by the effect of this settlement.

#### **XIV. EFFECT OF SETTLEMENT/CONTRIBUTION PROTECTION**

38. Except as provided in Paragraph 33, nothing in this Consent Decree shall be construed to create any rights in, or grant any cause of action to, any person not a Party to this Consent Decree. Except as provided in Paragraph 37, the Parties expressly reserve any and all rights (including, but not limited to, any right to contribution), defenses, claims, demands, and causes of action that they may have with respect to any matter, transaction, or occurrence relating in any way to the Site against any person not a Party hereto.

39. The Parties agree, and by entering this Consent Decree this Court finds, that Settling Defendant is entitled, as of the date of entry of this Consent Decree, to protection from contribution actions or claims as provided by Section 113(f)(2) of CERCLA, 42 U.S.C. § 9613(f)(2), for "matters addressed" in this Consent Decree. The "matters addressed" in this Consent Decree are Past Response Costs and the Work.

40. In any subsequent administrative or judicial proceeding initiated by the United States for injunctive relief, recovery of response costs, or other relief relating to the Site, Settling Defendant shall not assert, and may not maintain, any defense or claim based upon the statute of limitations, principles of waiver, *res judicata*, collateral estoppel, issue preclusion, claim-splitting, or other defenses based upon any contention that the claims raised by the United

States in the subsequent proceeding were or should have been brought in the instant case; provided, however, that nothing in this Paragraph affects the enforceability of the Covenant Not to Sue by Plaintiff set forth in Section XI.

#### **XV. ACCESS TO INFORMATION**

41. Settling Defendant shall provide to EPA, upon request, copies of all records, reports, or information (hereinafter referred to as "records") within its possession or control or that of its contractors or agents relating to activities at the Site, including, but not limited to, correspondence, or other documents or information related to the Site.

42. **Confidential Business Information and Privileged Documents.**

a. Settling Defendant may assert business confidentiality claims covering part or all of the records submitted to Plaintiff under this Consent Decree to the extent permitted by and in accordance with Section 104(e)(7) of CERCLA, 42 U.S.C. § 9604(e)(7), and 40 C.F.R.

2.203(b). Records determined to be confidential by EPA will be accorded the protection specified in 40 C.F.R. Part 2, Subpart B. If no claim of confidentiality accompanies records when they are submitted to EPA, or if EPA has notified Settling Defendant that the records are not confidential under the standards of Section 104(e)(7) of CERCLA or 40 C.F.R. Part 2 Subpart B, the public may be given access to such records without further notice to Settling Defendant.

b. Settling Defendant may assert that certain records are privileged under the attorney-client privilege or any other privilege recognized by federal law. If Settling Defendant asserts such a privilege in lieu of providing records, it shall provide Plaintiff with the following: 1) the title of the record; 2) the date of the record; 3) the name, title, affiliation (e.g., company or

firm), and address of the author of the record; 4) the name and title of each addressee and recipient; 5) a description of the subject of the record; and 6) the privilege asserted. If a claim of privilege applies only to a portion of a record, the record shall be provided to Plaintiff in redacted form to mask the privileged information only. Settling Defendant shall retain all records that it claims to be privileged until the United States has had a reasonable opportunity to dispute the privilege claim and any such dispute has been resolved in the Settling Defendant's favor. However, no records created or generated pursuant to the requirements of this or any other settlement with the EPA pertaining to the Site shall be withheld on the grounds that they are privileged.

43. No claim of confidentiality shall be made with respect to any data, including but not limited to any other documents or information evidencing conditions at or around the Site.

#### **XVI. RETENTION OF RECORDS**

44. Until 10 years after the entry of this Consent Decree, Settling Defendant shall preserve and retain all records now in its possession or control, or which come into its possession or control, that relate in any manner to response actions taken at the Site or the liability of any person under CERCLA with respect to the Site, regardless of any corporate retention policy to the contrary.

45. After the conclusion of the 10-year document retention period in the preceding paragraph, Settling Defendant shall notify EPA and DOJ at least 90 days prior to the destruction of any such records, and, upon request by EPA or DOJ, Settling Defendant shall deliver any such records to EPA. Settling Defendant may assert that certain records are privileged under the attorney-client privilege or any other privilege recognized by federal law. If Settling Defendant

asserts such a privilege, they shall provide Plaintiff with the following: 1) the title of the record; 2) the date of the record; 3) the name, title, affiliation (e.g., company or firm), and address of the author of the record; 4) the name and title of each addressee and recipient; 5) a description of the subject of the record; and 6) the privilege asserted. If a claim of privilege applies only to a portion of a record, the record shall be provided to Plaintiff in redacted form to mask the privileged information only. Settling Defendant shall retain all records that it claims to be privileged until the United States has had a reasonable opportunity to dispute the privilege claim and any such dispute has been resolved in the Settling Defendant's favor. However, no records created or generated pursuant to the requirements of this or any other settlement with the EPA pertaining to the Site shall be withheld on the grounds that they are privileged.

46. Settling Defendant hereby certifies individually that, to the best of its knowledge and belief, after thorough inquiry, it has not altered, mutilated, discarded, destroyed or otherwise disposed of any records, reports, or information relating to its potential liability regarding the Site since notification of potential liability by the United States or the filing of suit against it regarding the Site and that it has fully complied with any and all EPA requests for information pursuant to Sections 104(e) and 122(e) of CERCLA, 42 U.S.C. §§ 9604(e)

#### **XVII. NOTICES AND SUBMISSIONS**

47. Whenever, under the terms of this Consent Decree, notice is required to be given or a document is required to be sent by one party to another, it shall be directed to the individuals at the addresses specified below, unless those individuals or their successors give notice of a change to the other Party in writing. Written notice as specified herein shall constitute complete satisfaction of any written notice requirement of the Consent Decree with respect to the United

States, EPA, DOJ, and Settling Defendant, respectively.

As to the United States:

DOJ:

Chief, Environmental Enforcement Section  
Environment and Natural Resources Division  
U.S. Department of Justice (DJ # 90-11-3-1638/2)  
P.O. Box 7611  
Washington, D.C. 20044-7611

EPA:

Ursula Lennox  
Remedial Project Manager  
U.S. EPA (6SF-LP)  
U. S. Environmental Protection Agency Region VI  
1445 Ross Avenue  
Dallas, TX 75202-2733

Joseph E. Compton, III  
Assistant Regional Counsel  
Office of Regional Counsel  
U. S. Environmental Protection Agency Region VI  
1445 Ross Avenue  
Dallas, TX 75202-2733

Settling Defendant:

Evelyn F. Pugh  
Chief Deputy City Attorney  
City of New Orleans Law Department  
1300 Perdido Street  
5<sup>th</sup> Floor East  
New Orleans, LA 70112

**XVIII. RETENTION OF JURISDICTION**

48. This Court shall retain jurisdiction over this matter for the purpose of interpreting and enforcing the terms of this Consent Decree.



### **XIX. INTEGRATION**

49. This Consent Decree constitutes the final, complete and exclusive agreement and understanding among the Parties with respect to the settlement embodied in this Consent Decree. The Parties acknowledge that there are no representations, agreements or understandings relating to the settlement other than those expressly contained in this Consent Decree.

### **XX. LODGING AND OPPORTUNITY FOR PUBLIC COMMENT**

50. This Consent Decree shall be lodged with the Court for a period of not less than 30 days for public notice and comment. The United States reserves the right to withdraw or withhold its consent if the comments regarding the Consent Decree disclose facts or considerations which indicate that this Consent Decree is inappropriate, improper, or inadequate. Settling Defendant consents to the entry of this Consent Decree without further notice.

51. If for any reason this Court should decline to approve this Consent Decree in the form presented, this agreement is voidable at the sole discretion of any party and the terms of the agreement may not be used as evidence in any litigation between the Parties.

### **XXI. SIGNATORIES/SERVICE**

52. Each undersigned representative of Settling Defendant to this Consent Decree and the Assistant Attorney General for the Environment and Natural Resources Division of the United States Department of Justice certifies that he or she is authorized to enter into the terms and conditions of this Consent Decree and to execute and bind legally such Party to this document.

53. Settling Defendant hereby agrees not to oppose entry of this Consent Decree by

this Court or to challenge any provision of this Consent Decree, unless the United States has notified Settling Defendant in writing that it no longer supports entry of the Consent Decree.

54. Settling Defendant shall identify, on the attached signature page, the name and address of an agent who is authorized to accept service of process by mail on behalf of that Party with respect to all matters arising under or relating to this Consent Decree. Settling Defendant hereby agrees to accept service in that manner and to waive the formal service requirements set forth in Rule 4 of the Federal Rules of Civil Procedure and any applicable local rules of this Court, including but not limited to, service of a summons.

#### **XXII. APPENDIX**

55. The following appendices are attached to and incorporated into this Consent Decree:

“Attachment A” is the Technical Abstract for Utilities Operating Within the Agriculture Street Landfill Superfund Site;

“Attachment B” is the protocol for Post-Removal Maintenance for Property Owners;

“Attachment C” is the draft Environmental Protection Easement and Declaration of Restrictive Covenants;

“Attachment D” is the Conveyance Notice.

#### **XXIII. FINAL JUDGMENT**

56. Upon approval and entry of this Consent Decree by the Court, this Consent Decree shall constitute the final judgment between and among the United States and the Settling

Defendant. The Court finds that there is no just reason for delay and therefore enters this judgment as a final judgment under Fed. R. Civ. P. 54 and 58.

SO ORDERED THIS \_\_\_\_ DAY OF \_\_\_\_\_, 2008.

MARCEL LIVAUDAIS, JR.  
Senior United States District Judge

THE UNDERSIGNED PARTIES enter into this Consent Decree in the matter of *United States v. City of New Orleans, et al*, Civil Action No. 02-3618, relating to the Agriculture Street Landfill Superfund Site.

FOR THE UNITED STATES OF AMERICA

UNITED STATES DEPARTMENT OF JUSTICE

Date: \_\_\_\_\_

\_\_\_\_\_  
RONALD J. TENPAS  
Assistant Attorney General  
Environment and Natural Resources Division  
U.S. Department of Justice  
Washington, D.C. 20530

Date: \_\_\_\_\_

\_\_\_\_\_  
KENNETH G. LONG  
JEFFREY M. PRIETO  
Trial Attorneys  
Environmental Enforcement Section  
Environment and Natural Resources Division  
U.S. Department of Justice  
P.O. Box 7611  
Ben Franklin Station  
Washington, D.C. 20044  
(202) 514-2840  
(202) 616-6584 (fax)

JAMES LETTEN  
U.S. Attorney  
ENEID FRANCIS  
Assistant U.S. Attorney  
Eastern District of Louisiana

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

Date: \_\_\_\_\_

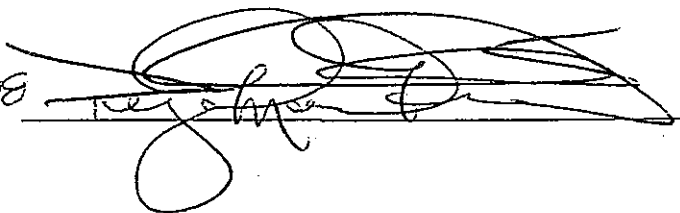
\_\_\_\_\_  
SAMUEL COLEMAN, P.E.  
Director  
Superfund Division

Date: \_\_\_\_\_

\_\_\_\_\_  
JOSEPH E. COMPTON, III  
Assistant Regional Counsel  
Office of Regional Counsel  
U. S. Environmental Protection Agency Region VI  
1445 Ross Avenue  
Dallas, TX 75202-2733

THE UNDERSIGNED PARTY enter into this Consent Decree in the matter of *United States v. City of New Orleans, et al*; Civil Action No. 02-3618, relating to the Agriculture Street Landfill Superfund Site.

FOR DEFENDANT CITY OF NEW ORLENAS

Date: January 25, 2008 

PENYA MOSES-FIELDS  
City Attorney  
City of New Orleans Law Department  
1300 Perdido Street  
5<sup>th</sup> Floor East  
New Orleans, LA 70112

## **APPENDIX A**

### **UNITED STATES ENVIRONMENTAL PROTECTION AGENCY REGION 6 DALLAS, TEXAS**

### **AGRICULTURE STREET LANDFILL SUPERFUND SITE NEW ORLEANS, LOUISIANA**

### **TECHNICAL ABSTRACT UTILITIES**

**Updated September 2006**

The remedy for subsurface contamination at the Agriculture Street Landfill Superfund Site includes a subsurface geotextile mat over contaminated material left in place. The geotextile mat is covered by 18 inches of clean soil and a vegetative cover in the right of ways and 24 inches of clean soil and a vegetative cover on the residential properties. The vegetative cover is to prevent the erosion of the soil cap. This Technical Abstract provides the protocol that utilities identified in the table below should follow to maintain the integrity of the permeable soil and geotextile mat implemented by the U.S. Environmental Protection Agency on the Agriculture Street Landfill Superfund Site. With the exception of nine residential properties, an EPA response action was implemented on the Site. Based on the best available information to date, the following utilities provide service in the area.

<b>SERVICE</b>	<b>PROVIDER</b>
Telephone	Bell South
Water	Sewage & Water Board
Sewage	Sewage & Water Board
Cable TV	Cox Communications
Electric	Entergy
Gas	Entergy

All properties will not have all of the above mentioned utilities present. However, the concerns and considerations for each utility will be the same for all properties.

### **EXCAVATION BELOW TWO FOOT EXCAVATION/BACKFILL LIMITS**

In the event that a utility company finds it necessary to excavate below the limits of the geotextile mat, the following procedures are to be followed:

- 1) The utility company shall notify the city of New Orleans that excavation below and penetration of the geotextile mat is necessary.
- 2) Soils excavated within the top two feet of the excavation (above the geotextile) may be set aside and used as backfill in the same area.
- 3) The geotextile is to be cut to provide access below the mat.
- 4) Soil excavated from below the mat is considered to be landfill material. Each utility company is to determine, after consulting with a Certified Industrial Hygienist, the proper personal protective equipment required to accomplish the work.
- 5) After completion of the work, the excavated soil (that from below the mat) may be placed back into the excavation as backfill (to an elevation not to exceed the elevation of the adjacent geotextile mat) or may be tested by the utility company and disposed of properly at a facility designated by the City of New Orleans.
- 6) After completion of the backfill below the remedy area, the geotextile and marker is to be restored. The geotextile is to be patched by cutting a piece of new fabric so that there is an overlap of 3 feet on all sides. The fabric used as the patch shall be of the same quality and properties as the original fabric.
- 7) The soils excavated from the top two feet shall be used as backfill above the geotextile mat.

For additional information, you may contact the City ..... at .....



## APPENDIX B

### NOTICE

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 6  
DALLAS, TEXAS

AGRICULTURE STREET LANDFILL SUPERFUND SITE  
NEW ORLEANS, LOUISIANA

POST-REMOVAL MAINTENANCE FOR PROPERTY OWNERS

The remedy for subsurface contamination at the Agriculture Street Landfill Superfund Site includes a subsurface geotextile mat over contaminated material left in place. The geotextile mat is covered by 18 inches of clean soil and a vegetative cover in the right of ways and 24 inches of clean soil and a vegetative cover on residential properties. The vegetative cover is to prevent the erosion of the soil cap. Post-closure care of the clean soil cap and vegetative cover consists of routine activities to maintain the integrity of the soil cap and vegetation on your property. Surface maintenance includes simple measures such as filling in holes above the geotextile mat with clean soil and continued cultivation of the grass, shrubbery, trees, and other landscape features to assure a healthy vegetative cover over the clean fill.

If excavation below the geotextile mat is required, the procedures for excavation and restoration outlined below should be followed. In general:

- 1) Clean soils excavated within the top two feet of the excavation (above the geotextile) may be set aside and used as backfill in the same area.
- 2) The geotextile is to be cut to provide access below the mat.
- 3) Soil excavated from below the mat is considered to be contaminated landfill material and should be placed on a plastic sheet (away from the clean soil), to avoid contact with the surface soil. Also proper personal protective equipment (i.e. coveralls, gloves, etc.) may be required to accomplish the work.
- 4) After completing the work, the excavated soil (from below the mat) may be placed back into the excavation below the mat as backfill.
- 5) After completion of the backfill below the matted area, the geotextile and marker are to be restored, and the excavation equipment cleaned.

6) The soils excavated from the top two feet (or clean fill from another source) can be used as backfill above the geotextile mat. The area should be re-vegetated and maintained, to off-set the erosion of clean backfill.

For additional information, you may contact the City ..... at .....

## APPENDIX C

### ENVIRONMENTAL PROTECTION EASEMENT AND DECLARATION OF RESTRICTIVE COVENANTS

1. This Environmental Protection Easement and Declaration of Restrictive Covenants is made this \_\_\_\_ day of \_\_\_\_\_, 2008, by and between \_\_\_\_\_ ("Grantor"), having an address of \_\_\_\_\_, and \_\_\_\_\_ ("Grantee"), having an address of \_\_\_\_\_.

#### WITNESSETH:

2. WHEREAS, Grantor is the owner of a parcel of land located in the Parish of \_\_\_\_\_, State of \_\_\_\_\_, more particularly described on **Exhibit A** attached hereto and made a part hereof (the "Property"); and

3. WHEREAS, the Property is part of the Agriculture Landfill Superfund Site ("Site"), which the U.S. Environmental Protection Agency ("EPA"), pursuant to Section 105 of the Comprehensive Environmental Response, Compensation and Liability Act ("CERCLA"), 42 U.S.C. § 9605, placed on the National Priorities List, set forth at 40 C.F.R. Part 300, Appendix B, by publication in the Federal Register on December 16, 1994; and

4. WHEREAS, EPA performed removal actions at the Site under a series of operable units. Operable Unit 1 ("OU1") addressed Undeveloped Property, Operable Unit 2 ("OU2") addressed Residential Properties, and Operable Unit 3 ("OU3") addressed the Shirley Jefferson Community Center. No actions by EPA were needed on Operable Unit 4 ("OU4") (Moton Elementary School) or Operable Unit 5 ("OU5") (Ground Water). The removal action on OU1 consisted of clearing the 48-acre area, grading it to direct storm water runoff away from the residential area, laying a permeable geotextile mat followed with orange fencing, covering the mat/marker with twelve inches of clean fill, and re-establishing a vegetative layer on the clean fill. The removal actions on OU2 and OU3 consisted generally of preparing the property, removing driveways and sidewalks as needed, excavating 24 inches of soil, placing a permeable geotextile mat/marker on the subgrade, backfilling the excavated area with clean fill, covering

the clean fill with grass sod, landscaping and yard restoration, driveway and sidewalk replacement, and final detailing. Because contaminants have been left in place beneath the geotextile mat, proper operation and maintenance practices and institutional controls are required to maintain the integrity of the cap.

5. WHEREAS, the parties hereto have agreed 1) to grant a permanent right of access over the Property to the Grantee for purposes of implementing, facilitating and monitoring the remedial action; and 2) to impose on the Property use restrictions as covenants that will run with the land for the purpose of protecting human health and the environment; and

6. WHEREAS, Grantor wishes to cooperate fully with the Grantee in the implementation of all response actions at the Site;

NOW, THEREFORE:

7. Grant: Grantor, on behalf of itself, its successors and assigns, in consideration of the terms of the Consent Decree in the case of United States v. City of New Orleans, et al., does hereby covenant and declare that the Property shall be subject to the restrictions on use set forth below, and does give, grant and convey to the Grantee, and its assigns, with general warranties of title, 1) the perpetual right to enforce said use restrictions, and 2) an environmental protection easement of the nature and character, and for the purposes hereinafter set forth, with respect to the Property.

8. Purpose: It is the purpose of this instrument to convey to the Grantee real property rights, which will run with the land, to facilitate the remediation of past environmental contamination and to protect human health and the environment by reducing the risk of exposure to contaminants.

9. Restrictions on use: The following covenants, conditions, and restrictions apply to the use of the Property, run with the land and are binding on the Grantor:

10. Modification of restrictions: The above restrictions may be modified, or terminated in whole or in part, in writing, by the Grantee. If requested by the Grantor, such writing will be executed by Grantee in recordable form.

11. Environmental Protection Easement: Grantor hereby grants to the Grantee an irrevocable, permanent and continuing right of access at all reasonable times to the Property for purposes of:

- (a) Monitoring, investigation, removal, remedial or other activities at the Site, including 5-year reviews;
- b) Verifying any data or information submitted to EPA;

- c) Verifying that no action is being taken on the Property in violation of the terms of this instrument or of any federal or state environmental laws or regulations;
- d) Monitoring response actions on the Site and conducting investigations relating to contamination on or near the Site, including, without limitation, sampling of air, water, sediments, soils, and specifically, without limitation, obtaining split or duplicate samples;
- e) Conducting periodic reviews of the response action, including but not limited to, reviews required by applicable statutes and/or regulations; and
- f) Implementing additional or new response actions if the Grantee, in its sole discretion, determines i) that such actions are necessary to protect the environment because either the original remedial action has proven to be ineffective or because new technology has been developed which will accomplish the purposes of the remedial action in a significantly more efficient or cost effective manner; and, ii) that the additional or new response actions will not impose any significantly greater burden on the Property or unduly interfere with the then existing uses of the Property.

12. Reserved rights of Grantor: Grantor hereby reserves unto itself, its successors, and assigns, all rights and privileges in and to the use of the Property which are not incompatible with the restrictions, rights and easements granted herein.

13. Nothing in this document shall limit or otherwise affect EPA's rights of entry and access or EPA's authority to take response actions under CERCLA, the NCP, or other federal law.

14. No Public Access and Use: No right of access or use by the general public to any portion of the Property is conveyed by this instrument.

15. Notice requirement: Grantor agrees to include in any instrument conveying any interest in any portion of the Property, including but not limited to deeds, leases and mortgages,  
a

notice which is in substantially the following form:

**NOTICE: THE INTEREST CONVEYED HEREBY IS  
SUBJECT TO AN ENVIRONMENTAL PROTECTION  
EASEMENT AND DECLARATION OF RESTRICTIVE  
COVENANTS, DATED \_\_\_\_\_, 2008, RECORDED IN  
THE PUBLIC LAND RECORDS ON \_\_\_\_\_, 2008, IN  
BOOK \_\_\_\_\_, PAGE \_\_\_\_\_, IN FAVOR OF, AND  
ENFORCEABLE BY, THE UNITED STATES OF  
AMERICA.**

Within thirty (30) days of the date any such instrument of conveyance is executed, Grantor must provide Grantee with a certified true copy of said instrument and, if it has been recorded in the public land records, its recording reference.

16. Administrative jurisdiction: The federal agency having administrative jurisdiction over the interests acquired by the United States by this instrument is the EPA.

17. Enforcement: The Grantee shall be entitled to enforce the terms of this instrument by resort to specific performance or legal process. All remedies available hereunder shall be in addition to any and all other remedies at law or in equity, including CERCLA. Enforcement of the terms of this instrument shall be at the discretion of the Grantee, and any forbearance, delay or omission to exercise its rights under this instrument in the event of a breach of any term of this instrument shall not be deemed to be a waiver by the Grantee of such term or of any subsequent breach of the same or any other term, or of any of the rights of the Grantee under this instrument.

18. Damages: Grantee shall be entitled to recover damages for violations of the terms of this instrument, or for any injury to the remedial action, to the public or to the environment protected by this instrument.

19. Waiver of certain defenses: Grantor hereby waives any defense of laches, estoppel, or prescription.

20. Covenants: Grantor hereby covenants to and with the United States and its assigns, that the Grantor is lawfully seized in fee simple of the Property, that the Grantor has a good and lawful right and power to sell and convey it or any interest therein, that the Property is free and clear of encumbrances, except those noted on **Exhibit D** attached hereto, and that the Grantor will forever warrant and defend the title thereto and the quiet possession thereof.

21. Notices: Any notice, demand, request, consent, approval, or communication that either party desires or is required to give to the other shall be in writing and shall either be served personally or sent by first class mail, postage prepaid, addressed as follows:

To Grantor:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

To Grantee:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

22. General provisions:

a) Controlling law: The interpretation and performance of this instrument shall be governed by the laws of the United States or, if there are no applicable federal laws, by the law of the state where the Property is located.

b) Liberal construction: Any general rule of construction to the contrary notwithstanding, this instrument shall be liberally construed in favor of the grant to effect the purpose of this instrument and the policy and purpose of CERCLA. If any provision of this instrument is found to be ambiguous, an interpretation consistent with the purpose of this instrument that would render the provision valid shall be favored over any interpretation that would render it invalid.

c) Severability: If any provision of this instrument, or the application of it to any person or circumstance, is found to be invalid, the remainder of the provisions of this instrument, or the application of such provisions to persons or circumstances other than those to which it is found to be invalid, as the case may be, shall not be affected thereby.

d) Entire Agreement: This instrument sets forth the entire agreement of the parties with respect to rights and restrictions created hereby, and supersedes all prior discussions, negotiations, understandings, or agreements relating thereto, all of which are merged herein.

e) No Forfeiture: Nothing contained herein will result in a forfeiture or reversion of Grantor's title in any respect.

f) Joint Obligation: If there are two or more parties identified as Grantor herein, the obligations imposed by this instrument upon them shall be joint and several.

g) Successors: The covenants, terms, conditions, and restrictions of this instrument shall be binding upon, and inure to the benefit of, the parties hereto and their respective personal representatives, heirs, successors, and assigns and shall continue as a servitude running in perpetuity with the Property. The term "Grantor", wherever used herein, and any pronouns used in place thereof, shall include the persons and/or entities named at the beginning of this document, identified as "Grantor" and their personal representatives, heirs, successors, and assigns. The term "Grantee", wherever used herein, and any pronouns used in





\_\_\_\_\_  
Notary Public in and for the  
State of \_\_\_\_\_

My Commission Expires: \_\_\_\_\_.

This easement is accepted this \_\_\_\_ day of \_\_\_\_\_, 2008.

UNITED STATES OF AMERICA  
the persons and/or entities named at the beginning of this document, identified as "Grantor" and  
their personal representatives, heirs, successors, and assigns.

U.S. ENVIRONMENTAL PROTECTION  
AGENCY

By: \_\_\_\_\_  
\_\_\_\_\_

Attachments:	Exhibit A	-	legal description of the Property
	Exhibit B	-	identification of proposed uses and construction plans, for the Property
	Exhibit C	-	identification of existing uses of the Property
	Exhibit D	-	list of permitted title encumbrances

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## APPENDIX D

### CONVEYANCE NOTICE FOR LAND RECORDS

Description: Track No. \_\_\_\_\_. Common Description:

WHEREAS, the Property is part of the Agriculture Street Superfund Site ("Site"), which the U.S. Environmental Protection Agency ("EPA"), pursuant to Section 105 of the Comprehensive Environmental Response, Compensation and Liability Act ("CERCLA"), 42 U.S.C. § 9605, placed on the National Priorities List, set forth at 40 C.F.R. Part 300, Appendix B, by publication in the Federal Register on December 16, 1994; and

WHEREAS, in an Action Memorandum dated September 2, 1997, the EPA Region 6 Regional Administrator selected a "removal action" for the Site, which was successfully implemented and completed on April 27, 2001. The remedy for subsurface contamination at the Site included grading the undeveloped property, excavation of 18-24 inches of contaminated soil within the residential properties and community center, and a subsurface geotextile mat constructed over contaminated material left in place. The mat is covered by 12 inches of clean soil and a vegetative cover on the undeveloped properties, 18 inches of clean soil and a vegetative cover in the right of ways, and 24 inches of clean soil and a vegetative cover on residential properties and the community center. The vegetative cover is to prevent the erosion of the soil cap. The Agency for Toxic Substances and Disease Registry concurs with the response action and finds it sufficient to protect public health and the environment.

WHEREAS, maintenance activities, including maintenance of the cap and vegetative cover, should be continued by the property owner in accordance with the attached protocol for Post-Removal Maintenance for Property Owners.

WHEREAS, this property may be subject to specific City permit requirements or zoning restrictions pertaining to the excavation of soil.

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## **Attachment 9**

### **City Ordinance**

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ORDINANCE  
(AS AMENDED)  
CITY OF NEW ORLEANS

CITY HALL: October 18, 2007

CALENDAR NO. 26,751

NO. 22893 MAYOR COUNCIL SERIES

BY: COUNCILMEMBER WILLARD-LEWIS (BY REQUEST)

AN ORDINANCE to amend Article I of Chapter 26 of the Code of the City of New Orleans by adding a section thereto, to be designated Section 26-11, to require a permit for excavation within the area known as the Agriculture Street Landfill site, in order to ensure that any excavation is performed in accordance with the protocols established by the Environmental Protection Agency; and otherwise to provide with respect thereto.

SECTION 1. THE COUNCIL OF THE CITY OF NEW ORLEANS HEREBY ORDAINS, that Article I of Chapter 26 of the Code of the City of New Orleans, be and the same is amended and reordained to read as follows:

ARTICLE I. IN GENERAL

\* \* \* \*

Sec. 26-11. Excavation within the Agriculture Landfill Site.

(a) The requirements of this sub-Section, 26-11, shall be applicable to the Agriculture Street Landfill site located in Orleans Parish, City of New Orleans. The approximately 95-acre site is bounded by Higgins Boulevard on the north, the above-grade railroad rights-of-way on the south and west, and the cul-de-sac at the southern end of Clouet Street, near the railroad tracks, to Higgins Boulevard between Press and Montegut streets on the east.

(b) Upon application for an Excavation Permit within the boundaries of the Agriculture Street Landfill site, the Department of Safety and Permits shall provide the applicant with a copy of the

14 Protocol on Post-Removal Maintenance for Property Owners. Owners or lessees of land within the  
15 Agriculture Street Landfill Site who seek to excavate soil to a depth of greater than 18 inches shall  
16 provide notice to the Department of Safety and Permits and shall first apply for an Excavation Permit  
17 certifying in such Excavation Permit application their intent to excavate and to comply with the U.S.  
18 Environmental Protection Agency's Protocol on Post-Removal Maintenance for Property Owners for  
19 the handling of contaminated soils and repair of the soil/geotextile mat. In not less than three (3) days  
20 after applying for an Excavation Permit, an Excavation Permit may be issued to the applicant. No fees  
21 shall be charged for residential properties in connection with obtaining an Excavation Permit.

22 \* \* \* \*

ADOPTED BY THE COUNCIL OF THE CITY OF NEW ORLEANS NOVEMBER 15, 2007

ARNIE FIELKOW  
PRESIDENT OF COUNCIL

DELIVERED TO THE MAYOR ON NOVEMBER 16, 2007

APPROVED:  
DISAPPROVED: NOVEMBER 20, 2007

C. RAY NAGIN  
MAYOR

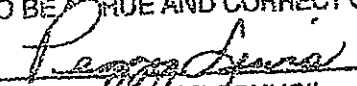
RETURNED BY THE MAYOR ON NOVEMBER 21, 2007 AT 12:40 P.M.

PEGGY LEWIS  
CLERK OF COUNCIL

ROLL CALL VOTE:

YEAS: Carter, Darnell, Fielkow, Head, Hedge-Morrell, Midura, Willard-Lewis - 7  
NAYS: 0  
ABSENT: 0

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THE FOREGOING IS CERTIFIED  
TO BE A TRUE AND CORRECT COPY  
  
CLERK OF COUNCIL